Course: FY BBA (Sem II)

Subject: Indian Constitution and Business in India

(Bhartiya Bandharan Bhartiya Vyavsay)

Unit 1: Economic History of the constitution of India

1.1 Meaning, Nature and Importance of the Constitution

1.2 Understanding the Preamble: From Land Reforms to RBI's Bitcoin Ban

1.3 Silent features of Indian Constitution

1.4 Legal Regulations and Economic Justice

1.1 Meaning, Nature and Importance of the Constitution

1.1.1 Meaning of Constitution

The Constitution is the most important and highest law in a country. It sets up the basic rules for how a state is run. The Constitution lays out how the government is set up, divides powers among different parts of the State, and regulates how those powers can be used. It also makes it plain what citizens' rights and responsibilities are, making sure that both the government and the people stay within the law.

Constitution as the highest law

- ***Example:*** *In India, if any law passed by Parliament goes against the Constitution, the* ***Supreme Court can declare it invalid****.*
  Example: Section 66A of the IT Act was struck down because it violated freedom of speech.

Setting up the structure of government

- ***Example:*** *The Constitution creates the* ***Legislature (Vidhan Sabha) (Parliament)****,* ***Executive (President, Prime Minister, Council of Ministers)****, and* ***Judiciary (Supreme Court, High Courts)*** *and defines their roles.*

Division of powers

- ***Example:*** *Powers are divided between the* ***Union and States*** *through the* ***Union List, State List, and Concurrent List****.*
  Example: Defence is handled by the Union, while police is mainly a State subject.

Regulating the use of power

- ***Example:*** *The Prime Minister cannot make laws alone; laws must be passed by Parliament and approved by the President, following constitutional procedures.*

Rights and duties of citizens

- ***Example:***
  - ***Right:*** *Freedom of Speech (Article 19)*
  - ***Duty:*** *Respect the Constitution and the National Flag (Article 51A)*

The Constitution is a <u>reflection of a country's values, aims, and ideals</u>. It expresses what the society believes in—such as justice, liberty, equality, and democracy. In India, these ideals are clearly articulated in the Preamble, which acts as the guiding spirit of the Constitution. So, the Constitution is not just a legal instrument; it is also a social, political, and economic charter . The Constitution also sets up the government by setting up institutions like the legislature (parliament/assembly), executive (decision-making/policy-making), and judiciary (courts) and detailing what they can do and how they work. It also has protections against abuse of power, like - basic rights, the division of powers, and the ability of courts to review decisions.

Another crucial thing about a Constitution is that it is always changing. It can be changed to fit the demands of society as they change, while yet keeping its core structure. This makes sure that the government is stable and flexible.

In simple terms, the Constitution is the foundation of the political system, the guardian of individual rights, and the guide for social and economic development of a country.

Reflection of values and ideals

Example: *The* ***Preamble*** *declares India to be* ***Sovereign (independent) , Socialist, Secular, Democratic, and Republic****, showing the country's commitment to equality, justice, and liberty.*

Constitution as a social, political, and economic charter *(deed/agreement)*

- ***Example:***
    - ***Social:*** *Abolition (ending) of untouchability (Article 17)*
    - ***Political:*** *Universal adult franchise (right to vote)*
    - ***Economic:*** *Directive Principles promoting equal pay for equal work*

Protection Against Abuse of Power

- ***Judicial Review*** *allows courts to check misuse of power by the legislature or executive.*

Example: Courts can cancel unconstitutional laws or government actions

Protection against misuse of power

- ***Example:***
  - ***Judicial Review:*** *Courts can review government actions*

Fundamental Rights: *Citizens can approach courts if rights are violated*

Flexibility and amendments

- ***Example:*** *The Constitution has been amended over* ***100 times****, such as the* ***73rd and 74th Amendments*** *that strengthened (reinforced/strong) local self-government (Panchayats and Municipalities).*

Foundation of political system and development

- ***Example:*** *Welfare schemes, reservations for SC/ST/OBCs, and gender equality laws are guided by constitutional principles.*

1.1.2 Nature of constitution

Constitutional nature relates to its structure, purpose, and character. It describes the Constitution's operation and how it affects state-citizen interactions. India's Constitution is distinctive and comprehensive, reflecting its history, social diversity, and democratic goals.

First, the Constitution is supreme. All government branches — legislature, executive, and judiciary— draw authority from this supreme law. Laws that violate the Constitution can be overturned by the courts. This guarantees legality and prevents power abuse.

Second, the Indian Constitution is detailed. India's Constitution details government, rights, duties, and procedures, unlike some countries' unwritten constitutions. Detail helps reduce confusion and bring clarity in heterogeneous India.

The third aspect is democracy. Popular sovereignty, where the people rule, is the basis of the Constitution. Constitutional clauses endorse democratic values such free elections, equality before the law, and government accountability.

Federalism with a unitary bias is also significant. The Union and States share power, but the Centre has more authority to safeguard unity and integrity, especially in emergencies. This balance suits India's size and diversity.

The Constitution is secular and inclusive. It guarantees religious freedom to all citizens without favoring any religion. This safeguards minority rights and fosters societal peace.

Finally, the Indian Constitution evolves. It adjusts to social, economic, and political changes through revisions and judicial interpretation. This fluid yet steady nature keeps the Constitution relevant. The Constitution underpins the Indian political system by ensuring justice, stability, democracy, and order.

Supremacy (highest) of the Constitution

- *If Parliament passes a law that violates Fundamental Rights, the **Supreme Court can strike it down**.*
- *Example: The Supreme Court declared **Section 66A of the IT Act unconstitutional** for violating freedom of speech.*

Detailed (Written) Constitution

- *The Indian Constitution has **395 Articles and 12 Schedules**, clearly explaining the powers of the President, Prime Minister, Parliament, courts, and States.*

Example: Articles 74–75 explain how the Council of Ministers functions.

Democratic Nature

- ***Universal Adult Franchise** allows every citizen above 18 years to vote, regardless of caste, religion, gender, or wealth.*
- *Example: Regular **free and fair elections** conducted by the Election Commission.*

Popular Sovereignty

- *Governments are formed by **elected representatives of the people**, and can be removed by elections.*
- *Example: A ruling party losing power after general elections reflects people's will.*

Federalism with Unitary Bias

- *Powers are divided between the **Union and States**, but during emergencies, power shifts to the Centre.*
- *Example: During a **National Emergency (Article 352)**, the Centre can legislate on State subjects.*

Secular Nature

- *The State does not promote any religion and guarantees **freedom of religion** to all citizens.*
- *Example: Citizens are free to practice Hinduism, Islam, Christianity, Sikhism, etc., under **Articles 25–28**.*

Inclusive Nature

- *The Constitution provides **reservations for SCs, STs, OBCs, women, and minorities** to ensure equality.*
- *Example: Reserved seats in legislatures and educational institutions.*

Dynamic and Evolving Nature

Example:

- *The Constitution can be amended to meet new needs.*
- *Example:*
  - ***73rd and 74th Amendments** strengthened local self-government.*
  - ***Right to Education** was added as a Fundamental Right (86th Amendment).*

Foundation of Political Stability and Justice

Example:

- *Fundamental Rights ensure justice, while Directive Principles guide welfare policies.*
- *Example: Laws promoting **social justice, economic equality, and human dignity** are based on constitutional values.*

1.1.3 Importance of constitution

1. Supreme Law of the Land (country)

The Constitution is the most important and highest law in the country. All other laws, activities, and policies of the government must follow what it says. The courts can say that a statute is unconstitutional if it goes against the Constitution. This makes sure that the law is followed and stops the government from abusing its power.

- If Parliament passes a law that violates Fundamental Rights, the **Supreme Court can declare it unconstitutional**.
- *Example:* Section 66A of the IT Act was struck down for violating freedom of speech.

2. Foundation of Government Structure

The Constitution sets up the government and makes it clear what the legislature, executive, and judiciary can and can't do. It talks about how these organs are made, how they work, and how they are responsible to each other. This separation of powers makes government run more smoothly and stops one group from having too much power.

The Constitution clearly defines the roles of the **Legislature (law-making)**, **Executive (law-implementation)**, and **Judiciary (law-interpretation)**.

- *Example:* Parliament cannot punish people directly; only courts can do so.

3. Protection of Fundamental Rights

One of the most essential things the Constitution does is preserve fundamental rights including freedom, equality, religion, and life and liberty. These rights protect people against the State's arbitrary actions and make sure that all citizens have dignity and freedom.

- Citizens can approach courts if their rights are violated.
- *Example:* If a person is arrested unlawfully, they can seek protection under **Article 21 (Right to Life and Personal Liberty)**.

4. Promotion of Justice and Equality

The Constitution's goal is to make sure that all citizens have social, economic, and political fairness. It helps lower inequality and makes sure that everyone is treated fairly, no matter what caste, religion, gender, or money they have.

The Constitution prohibits discrimination and promotes equality.

Example: **Article 15** forbids *(prohibits)* discrimination based on caste, religion, gender, or place of birth.

5. Guidance of State Policies

The Constitution gives the government directions on how to achieve welfare, economic growth, and social justice through the Directive Principles of State Policy. These principles affect the creation of laws and the making of policies, even though courts can't enforce them.

- Government welfare schemes are based on Directive Principles.
- *Example:* Laws on **minimum wages**, **free education**, and **public health** are inspired by Directive Principles of state Policy.

6. Maintenance of National Unity and Integrity

The Constitution encourages unity by recognizing India's diversity while also making sure that everyone has the same legal and political rights. Federal rules, single citizenship, and shared rights help keep a diverse community together.

- Despite linguistic *(language)* and cultural diversity, all Indians enjoy **single citizenship** and equal rights.

Example: A citizen from Tamil Nadu has the same rights in Punjab or Assam.

7. Democratic Governance

The Constitution sets up democracy by making sure that elections are free and fair, that all adults can vote, and that the government is made up of representatives. Elections are a way for citizens to take part in government and make sure that it is accountable and open.

- Citizens elect their representatives through free and fair elections.

Example: General elections conducted by the **Election Commission of India** allow people to change the government peacefully.

8. Flexibility and Stability

The Constitution is not too strict or too loose. Its process for making modifications lets society's requirements change over time while keeping its basic structure in place. This equilibrium guarantees that things stay stable throughout time while still being able to change.

- The Constitution can be amended to meet new challenges.
- *Example:*
    - **86th Amendment** made education a Fundamental Right.
    - **73rd and 74th Amendments** strengthened *(strong)* local self-government.

9. Safeguard Against Authoritarianism

The Constitution stops dictatorships and promotes democratic values by restricting the power of the government and making sure that courts may examine decisions. It makes sure that no one is above the law.

- No authority is above the Constitution.
- *Example:* Courts can review government actions and cancel unconstitutional orders, preventing dictatorship or misuse of power.

1.2 Understanding the Preamble: From Land Reforms to RBI's Bitcoin Ban

The Preamble of the Indian Constitution is not just a ceremonial introduction—it is a powerful guiding force that shapes India's economic philosophy. It expresses India's aims of **Justice (social, economic, and political), Liberty, Equality, and Fraternity.** Courts frequently use the Preamble as a compass to interpret laws, especially where the relationship between the **State, markets, and individual rights** is involved. This expanded explanation shows how these values influenced major economic developments—from the 1950s land reforms to the 2020 cryptocurrency judgment.

1. Land Reforms and Economic Justice

After independence, India inherited a rural economy dominated by extreme land inequality. Under colonial rule, systems like **zamindari and jagirdari** allowed a few landlords to own huge portions of arable land, while millions of peasants worked as tenants or sharecroppers with no security of livelihood. This resulted in widespread exploitation, low agricultural productivity, and deep poverty.

The government felt morally and constitutionally obligated to correct this historical injustice because the Preamble promises **economic and social justice**. Thus, the State introduced comprehensive land reforms that included:

● **Abolition of intermediaries** (removing zamindars who collected rent without cultivating the land),
● **Imposing land ceilings** to prevent concentration of land in a few hands,
● **Redistributing surplus land** to landless labourers,
● **Strengthening tenancy rights** to prevent eviction,
● **Promoting cooperative farming** to improve efficiency.

Many landlords challenged these reforms in court. However, the Supreme Court repeatedly held that reducing inequality and removing exploitation were legitimate constitutional goals. In **State of Rajasthan v. Mohan Lal Vyas (1971)**, the Court recognised the State's power to regulate, control, or even monopolise economic activity if it served the larger public welfare. This period established that the Preamble justifies strong government intervention to create an economically fair society.

Abolition of Zamindari System

Example:

- *States like **Uttar Pradesh, Bihar, and West Bengal** passed Zamindari Abolition Acts in the early 1950s.*
- *Zamindars lost ownership rights, and cultivators became direct tenants of the State.*

*➞ **Economic Justice Impact:** Ended rent extraction by non-cultivating intermediaries and improved peasants' security.*

Imposition of Land Ceiling Laws

Example:

- ***Kerala Land Reforms Act (1963)** and **West Bengal Land Reforms Act (1955)** fixed maximum landholding limits.*
- *Surplus land was taken over by the State.*

*➞ **Economic Justice Impact:** Prevented land concentration and promoted equitable distribution.*

Redistribution of Surplus Land

Example:

- *In **West Bengal**, surplus land was redistributed to landless agricultural labourers under land reform programs.*
- *Millions received small plots for cultivation.*

*➞ **Economic Justice Impact:** Created livelihood security and reduced rural poverty.*

4. Strengthening Tenancy Rights

Example:

- ***Operation Barga (West Bengal)** recorded sharecroppers (bargadars) and protected them from eviction.*
- *Tenants were assured a fair share of produce.*

*➞ **Economic Justice Impact:** Reduced exploitation and empowered marginal farmers.*

Promotion of Cooperative Farming

Example:

- *Cooperative farming societies were promoted in states like **Maharashtra and Gujarat**.*
- *Farmers pooled land and resources for better productivity.*

*➞ **Economic Justice Impact:** Improved efficiency and collective welfare of small farmers.*

Constitutional Protection of Land Reforms

Example:

- *The **First Constitutional Amendment (1951)** added **Articles 31A and 31B** to protect land reform laws from judicial invalidation.*
- *The **Ninth Schedule** was created to shield such laws.*

*➞ **Constitutional Significance:** Showed that economic justice overrides individual property claims.*

Judicial Support for State Intervention

Example:

- ***State of Rajasthan v. Mohan Lal Vyas (1971)** upheld strong State control over economic activity in the public interest.*
- *The Court held that economic regulation is valid if aimed at public welfare.*

*➞ **Link to Preamble:** Justice—social and economic—justifies government intervention.*

Limiting Right to Property

Example:

- *Initially a Fundamental Right, **Right to Property** was diluted and later removed by the **44th Amendment (1978)**.*
- *Property became a legal right, not a fundamental one.*

➞ ***Economic Justice Impact:*** *Enabled redistribution without constitutional barriers.*

2. Bank Nationalisation and Balancing Liberty with State Power (1970)

By the 1960s, Indian banks were privately owned and primarily served wealthy clients and big businesses. Most rural areas had no access to credit, and lending rarely supported agriculture or small industries—areas crucial for economic development and poverty reduction.

To fulfil the Preamble's aim of **economic justice**, the government nationalised 14 major banks in 1969 so that financial resources could be directed toward national priorities like farming, rural development, and poverty alleviation.

However, nationalization raised an important constitutional question:

Can the State take over private enterprises without violating individual freedom and property rights?

This issue reached the Supreme Court in **R.C. Cooper v. Union of India (1970)**. The Court delivered a historic judgment stating:

● Nationalisation is allowed,

● **But** the government must respect **Article 19(1)(g)** (freedom of trade and business),

● The State must compensate owners fairly,

● Actions affecting companies are considered to affect the rights of *shareholders* directly (Direct Effect Doctrine/policy).

The judgment did not reject nationalization, but clarified that the Preamble's goals must be balanced—**economic justice cannot override liberty and fairness**. This case became a cornerstone in economic constitutionalism, marking a shift from pure socialist tendencies to a more balanced interpretation.

Bank Nationalisation as a Tool of Economic Justice

Example:

- *In **1969**, the government nationalised **14 major commercial banks**.*
- *Banks were directed to fund **agriculture, small-scale industries, rural development, and poverty alleviation programs**.*

*➡ **Preamble Link:** Redistribution of financial resources to achieve economic justice.*

Constitutional Challenge by Bank Owners

Example:

- *Shareholders argued that nationalisation violated:*
  - ***Article 19(1)(g)** – freedom to practice trade or business*
  - ***Right to Property** (then a Fundamental Right)*

*➡ **Key Question:** Can the State pursue economic justice by limiting individual economic liberty?*

R.C. Cooper v. Union of India (1970) – Bank Nationalisation Case

Example:

- *The Supreme Court held that:*
  - *✓ **Nationalisation is constitutionally valid***
  - *✗ The method adopted by the government was flawed*

*➡ **Significance:** State power is valid, but must be exercised fairly.*

Respect for Economic Liberty

Example:

- *The Court ruled that nationalisation must not **arbitrarily restrict freedom of trade and business**.*
- *Any restriction must be **reasonable and in public interest**.*

*➡ **Preamble Balance:** Justice must coexist with liberty.*

Fair Compensation Requirement

Example:

- *The Court emphasized that owners must receive **adequate and fair compensation**.*

- *Compensation cannot be illusory or symbolic.*

➞ ***Constitutional Principle:*** *Economic justice cannot be achieved through unfair deprivation.*

Direct Effect Doctrine

Example:

- *Even though banks were companies, the Court ruled that:*
    - *If a law affects a company, it* ***directly affects shareholders' rights****.*
- *Hence, shareholders can challenge such laws.*

➞ ***Importance:*** *Strengthened protection of individual rights against excessive State action.*

Acceptance of State Control with Constitutional Limits

Example:

- *The judgment did* ***not oppose socialism or nationalisation****.*
- *It only insisted that* ***constitutional freedoms must be respected****.*

➞ ***Shift in Interpretation:*** *From rigid socialism to a* ***balanced constitutional economy****.*

Long-Term Impact

Example:

- *After correcting legal defects, the government re-nationalised banks with valid legislation.*
- *Bank nationalisation later helped expand:*
    - *Rural branches*
    - *Priority sector lending*
    - *Financial inclusion*

➞ ***Outcome:*** *Economic justice achieved without abandoning constitutional liberty.*

3. Liberalisation and Competitive Markets After 1991

By the late 1980s, India's heavily controlled economy caused slow growth, inefficiency, lack of innovation, and bureaucratic corruption. The 1991 economic crisis forced India to rethink its development model. The government moved towards a **market-oriented economy**, reducing licences, promoting competition, allowing foreign investment, and opening domestic markets.

The judiciary played a major role by interpreting the Preamble in a modern way. In **Mithilesh Garg v. Union of India (1992)**, the Court upheld reforms that removed the need for transport operators to obtain special permits. The Court explained:

● Removing unnecessary restrictions increases competition,

● Competition leads to lower prices and better services,

● More people get economic opportunities (self-employment, entrepreneurship),

● This aligns with **economic justice**, because justice also means removing artificial barriers that prevent people from earning a livelihood.

This period showed that the Preamble is flexible and evolves with the times. In the socialist era, it justified State intervention; in the liberalisation era, it supported **economic freedom, competition, and efficiency**.

EXAMPLES

1. Economic Crisis Leading to Liberalisation (1991)

Example:

- *India faced a **balance of payments crisis** in 1991 and had to pledge gold to obtain foreign loans.*
- *This exposed the failure of excessive State control and the **Licence–Permit Raj**.*

***➞ Constitutional Shift:** Economic justice now required growth, efficiency, and opportunity—not just control.*

---

2. Dismantling the Licence–Permit Raj

Example:

- *Industrial licensing was abolished for most industries.*
- *Entrepreneurs could start businesses without lengthy government approvals.*

*➞ **Preamble Link:** Liberty of profession and economic opportunity.*

---

3. Promotion of Competition

Example:

- Removal of entry barriers allowed multiple players in sectors like **transport, telecom, and manufacturing**.
- Competition led to better services and lower prices.

➞ **Economic Justice:** Consumers benefit and markets become more inclusive.

---

4. Mithilesh Garg v. Union of India (1992)

Example:

- The government removed the requirement of special permits for transport operators.
- Existing operators challenged the policy, claiming loss of livelihood.

Supreme Court's Reasoning

- ✓ Free entry into business promotes competition
- ✓ Competition improves efficiency and service quality
- ✓ Consumers and new entrepreneurs benefit

➞ **Preamble Interpretation:** Economic justice includes removing artificial barriers to earning a livelihood.

---

5. Expansion of Self-Employment and Entrepreneurship

Example:

- Easier market entry encouraged **small businesses, private transport operators, and service providers**.
- More individuals could participate in economic activity.

➞ **Justice + Liberty:** Freedom of trade enhances economic justice.

---

6. Foreign Direct Investment (FDI)

Example:

- Liberalisation allowed foreign companies to invest in India.
- Sectors like **automobiles, telecom, and IT** expanded rapidly.

➞ **Outcome:** Job creation, technology transfer, and consumer choice.

---

7. Judicial Endorsement of Market Economy

Example:

- Courts stopped viewing competition as harmful.
- Instead, competition was seen as **beneficial to public welfare**.

➞ **Shift:** From protectionism to efficiency-oriented constitutional interpretation.

---

8. Evolving Meaning of Socialism

Example:

- Post-1991, socialism no longer meant State monopoly.
- It meant **fair markets, regulation, and inclusive growth**.

➞ **Preamble Flexibility:** Values remain constant, methods change.

---

9. Balance Between Regulation and Freedom

Example:

- While markets were liberalised, regulation continued through:
    - Competition law
    - Consumer protection laws

➞ **Constitutional Balance:** Liberty with safeguards.

4. The Digital Economy and RBI's Bitcoin Ban (2020)

The rise of cryptocurrencies created a new challenge for Indian regulators. In 2018, the **RBI issued a circular banning bank from providing services to cryptocurrency exchanges**, which made it impossible for the crypto industry to function. The RBI justified the ban on grounds of consumer protection and financial stability.

However, the industry argued that:

● The ban was excessive,

● There was no actual evidence of harm,

● Innovation and business freedom were being blocked.

In **Internet and Mobile Association of India v. RBI (2020)**, the Supreme Court struck down the ban. It applied the **doctrine of proportionality**, meaning restrictions must:

1. Serve a legitimate purpose,
2. Be necessary,
3. Be based on evidence,
4. Not excessively restrict rights.

The Court held that:

● RBI failed to show real harm from cryptocurrencies,

● A blanket ban was too harsh,

● The ban violated **Article 19(1)(g)** (freedom of trade),

● Regulation must be balanced and fair, consistent with the Preamble's values of liberty and justice.

This case proved that the Preamble guides judgments **even in new-age economic sectors** like fintech, crypto, and digital markets.

1. Emergence of the Digital and Crypto Economy

Example:

- *Cryptocurrencies and blockchain-based businesses emerged as **new digital assets** enabling fast, borderless transactions.*
- *Indian crypto exchanges provided platforms for trading, innovation, and fintech entrepreneurship.*

➞ ***Constitutional Issue:*** *How to regulate innovation without violating economic liberty.*

---

2. RBI Circular Banning Banking Support (2018)

Example:

- *The RBI directed banks and financial institutions **not to provide services** to cryptocurrency exchanges.*
- *This did not ban crypto directly but **made business operations impossible**.*

➞ ***State Justification:*** *Consumer protection, prevention of money laundering, and financial stability.*

---

3. Impact on Trade and Business Freedom

Example:

- *Crypto exchanges shut down or moved overseas.*
- *Thousands of employees and entrepreneurs lost economic opportunities.*

➞ ***Constitutional Concern:*** *Violation of **Article 19(1)(g)** – freedom of trade and profession.*

---

4. Challenge by Industry Bodies

Example:

- *The **Internet and Mobile Association of India (IMAI)** challenged the RBI's circular.*
- *Petitioners argued the ban was:*
  - *Disproportionate*
  - *Unsupported by evidence*
  - *Hostile to innovation*

➞ ***Preamble Link:*** *Liberty and economic justice in a modern economy.*

---

5. Internet and Mobile Association of India v. RBI (2020)

Example:

- *The Supreme Court accepted that:*
  - *RBI has regulatory power*
  - *Consumer protection is a legitimate aim*

➞ *But ruled:* *Power must be exercised **reasonably and proportionately**.*

6. Application of the Doctrine of Proportionality

Example:
The Court held that restrictions must:

1. *Serve a legitimate purpose*
2. *Be necessary to achieve that purpose*
3. *Be based on evidence of harm*
4. *Impose the **least restrictive burden** on rights*

➞ *Finding:* *RBI failed to satisfy these requirements.*

---

7. Absence of Proven Harm

Example:

- *RBI could not show instances where cryptocurrency trading:*
  - *Harmed banks*
  - *Destabilised the financial system*

➞ *Legal Result:* *Blanket ban was unjustified.*

---

8. Rejection of Blanket Ban

Example:

- *The Court stated that:*
  - *Total prohibition is the harshest measure*
  - *Regulation, not prohibition, should be preferred*

➞ *Preamble Balance:* *Justice through regulation + liberty through freedom of trade.*

---

9. Recognition of New-Age Economic Freedom

Example:

- *The Court recognised that **digital businesses deserve constitutional protection** like traditional industries.*
- *Innovation and entrepreneurship are part of economic liberty.*

*➞ **Modern Interpretation:** Preamble adapts to technological change.*

10. Long-Term Constitutional Significance

Example:

- *The judgment guided later debates on:*
  - *Fintech regulation*
  - *Digital assets*
  - *Technology-driven markets*

*➞ **Principle Established:** Regulation must be fair, evidence-based, and proportionate.*

Conclusion

Across different phases of India's economic journey, the Preamble has acted as a living, evolving guide.

● In the 1950s, it justified **land reforms** and redistribution to reduce historical inequality.

● In the 1970s, it balanced **State control and individual liberty** during bank nationalisation.

● In the 1990s, it supported **liberalisation and competition**, recognising that economic justice also means enabling growth and opportunity.

● In the digital era, it ensured **fair, proportionate** *(balanced)* **regulation** in cutting-edge (*modern*) fields like cryptocurrency.

1.3 Silent features of Indian constitution

1. The longest written constitution

The Indian Constitution is the longest written constitution in the world. It has extensive rules for the structure of government, basic rights, responsibilities, guiding principles, emergency powers, and how to run the government. This level of detail was chosen to make things clear and stable in a country as diverse as India.

Example:

- *The Indian Constitution originally had **395 Articles and 8 Schedules** (now expanded).*
- *It gives detailed provisions on citizenship, elections, emergencies, and centre–state relations.*

→ ***Why important:*** *Reduces ambiguity (doubt) in a large and diverse country like India.*

2. Written and Supreme Constitution

The Constitution of India is a written constitution that is the highest law in the country. All laws made by the Parliament and State Legislatures must follow the rules set out in the Constitution. The courts can throw out any statute that goes against the Constitution.

Example:

- *If Parliament passes a law violating Fundamental Rights, courts can strike it down.*
- *Example: **Section 66A of the IT Act** was declared unconstitutional.*

→ ***Meaning:*** *Constitution is above all authorities.*

3. Blend of Rigidity and Flexibility

The Constitution of India is both rigorous and flexible. Some clauses can be changed by a simple majority in Parliament, while others need a special majority and, in some situations, approval from the states. This balance lets changes happen that are needed without making the constitution less stable.

Example:

- ***Simple majority:*** *Creation of new states.*
- ***Special majority:*** *Amendment of Fundamental Rights.*
- ***Special majority + State ratification:*** *Change in federal structure.*

➞ ***Balance:*** *Change without instability.*

4. A federal system with a unitary bias

India has a federal system in which the Union and the States share power. But the Centre has more power, especially during emergencies. This unitary bias helps keep the country together and strong.

Example:

- *Subjects are divided into **Union, State, and Concurrent Lists**.*
- *During **National Emergency**, Centre can legislate on State subjects.*

➞ ***Purpose:*** *Unity in diversity.*

5. Parliamentary System of Government

The Constitution sets up a parliamentary system in which the executive branch is accountable to the legislature. The President is the official leader of the State, although the Prime Minister and the Council of Ministers have real power.

Example:

- *The **Prime Minister and Council of Ministers** are responsible to the Lok Sabha.*
- *Government must resign if it loses majority support.*

➞ ***Accountability:*** *Executive answerable to legislature.*

6. Fundamental Rights

Fundamental Rights defend basic freedoms like the right to free speech, the right to equitable treatment under the law, the right to freedom of religion, and the right to life and liberty. These rights can be enforced through the courts.

Example:

- ***Article 19:*** *Freedom of speech and expression.*
- ***Article 21:*** *Right to life and personal liberty.*

➞ ***Protection:*** *Citizens can directly approach courts.*

7. Directive Principles of state policy

The Directive Principles tell the government how to make laws that are good for the economy and society. They aren't legally binding, but they are important for government and are meant to create a welfare state.

Example:

- ***Free education***, ***minimum wages***, *and* ***public health policies*** *are inspired by DPSPs.*

➞ ***Goal:*** *Creation of a welfare state.*

8. Secular State

There is no religion in India. The Constitution doesn't name any religion as the official religion of the state, and it protects everyone's right to practice their beliefs and worship. It stays neutral when it comes to religion.

Example:

- *Citizens are free to practice any religion.*
- *The State does not promote or favor any religion.*

➞ ***Neutrality:*** *Equal respect for all religions.*

9. Independent Judiciary and Judicial Review

The Constitution says that there should be an independent court to preserve the Constitution and basic rights. Judicial review lets courts look at whether laws and government acts are constitutional.

Example:

- *Judges of the Supreme Court have security of tenure.*
- *Courts can invalidate unconstitutional laws.*

➞ ***Safeguard:*** *Protection of rights and Constitution.*

10. Universal Adult Franchise

The Constitution says that everyone above the age of 18 has the right to vote, without any exceptions. This makes sure that everyone has the same political rights and can take part in democracy.

Example:

- *Every citizen above **18 years** has the right to vote.*
- *No discrimination based on caste, religion, or gender.*

➞ ***Democracy:*** *Political equality.*

11. Single Citizenship

India has a single citizenship system, which is different from various federations. Every citizen is an Indian citizen, which makes the country stronger.

Example:

- *An Indian citizen enjoys the same rights across all states.*
- *No separate state citizenship.*

➞ ***Unity:*** *Strengthens national integration.*

12. Emergency Provisions

The Constitution has emergency measures for times of war, civil unrest, or financial catastrophe. These rules provide the Center more power when it needs it.

The Indian Constitution's most important parts show that it is democratic, adaptable, open to everyone, and dedicated to justice. Together, they make a strong base for running a government in a society that is always changing and has many different types of people.

Example:

- ***National Emergency:*** *War or external aggression.*
- ***State Emergency:*** *Breakdown of constitutional machinery.*
- ***Financial Emergency:*** *Threat to financial stability.*

➞ ***Purpose:*** *Crisis management and national stability.*

1.4 Legal Regulations and Economic Justice

Legal regulations are the rules, laws, policies, and government actions that control how individuals, businesses, and markets operate. **Economic justice** refers to a fair distribution of wealth, opportunities, and economic benefits in society. When combined, **legal regulations act as tools to achieve economic justice**, ensuring that economic activities do not exploit people, widen inequality, or harm public welfare.

Meaning of Legal Regulations

Legal regulations include:

● Acts passed by Parliament (e.g., Companies Act, Consumer Protection Act).

● Government policies (e.g., industrial licensing, taxation rules).

● Court rulings affecting business and economy.

● Rules formed by agencies like RBI, SEBI, TRAI, IRDAI, Competition Commission of India.

They create a framework ensuring that economic activities remain **responsible, accountable, and fair**.

Meaning of Economic Justice

Economic justice means:

● Reducing inequality

● Ensuring fair access to resources

● Protecting workers and consumers

● Preventing monopolies and exploitation

● Providing equal economic opportunities

It is also part of India's Constitutional goal (Preamble: *social and economic justice*).

Relationship between Legal Regulations and Economic Justice

Economic justice means creating a fair economic system where all individuals have equal opportunities to work, earn, and grow. Legal regulations—laws, rules, and government policies—play a crucial role in ensuring this fairness. Without laws, powerful groups could exploit markets, workers, and resources. Therefore, legal regulation acts as a framework that keeps the economy just, transparent, and inclusive.

1. Legal Regulations Protect the Weak and Prevent Exploitation

One of the main purposes of law is to protect vulnerable sections of society. Economic markets often favour those with money, skills, or power, leaving others behind. Laws such as minimum wage laws, labour laws, consumer protection laws, and land reform acts help create a balance. For example, laws prohibiting bonded labour or child labour ensure that people are not forced into unfair working conditions. By restricting exploitative practices, legal regulation directly promotes economic justice.

2. Legal Framework Ensures Fair Distribution of Resources

Economic justice also involves distributing national resources more fairly, so that wealth does not remain concentrated in a few hands. The Constitution empowers the State to pass laws on land ceilings, redistribution of surplus land, and taxation. These laws ensure that resources like land, minerals, and natural wealth benefit society as a whole and not just powerful individuals. This reflects the principle of economic justice mentioned in the Preamble and the Directive Principles of State Policy.

3. Legal Regulations Create Equal Economic Opportunities

A just economy is one where every individual—regardless of caste, gender, or wealth—gets equal opportunities to participate in economic activities. Legal regulations remove barriers that prevent people from accessing jobs, education, or markets.

Reservation laws, anti-discrimination laws, and equal-pay provisions ensure that deprived groups can compete fairly. Similarly, laws promoting free competition (like competition law) prevent monopolies from controlling markets, which creates a level playing field.

4. Ensures Transparency and Accountability in Economic Activities

Economic justice requires systems that are transparent and accountable. Legal regulations like banking laws, company laws, taxation rules, and audit requirements ensure that businesses operate responsibly. This prevents corruption, financial fraud, insider trading, and manipulation. When economic activities are regulated, citizens gain trust in the system, and wealth flows more efficiently and fairly through society.

5. Role of Courts in Enforcing Economic Justice

Courts play a vital role by interpreting laws in a way that promotes fairness. Important judgments like *R.C. Cooper v. Union of India* and the *Bitcoin Ban case (2020)* show that courts protect individuals from unreasonable economic restrictions while still allowing the State to regulate in the public interest. Judicial review ensures that any economic regulation must be reasonable, proportional, and in line with fundamental rights.

6. Balancing State Control and Individual Freedom

Legal regulations achieve a balance between government control and personal economic freedom. Too much regulation can restrict innovation and business growth, while too little regulation may lead to exploitation or inequality.

A balanced system—guided by the Constitution—ensures that economic policies promote welfare while respecting individual rights like freedom of trade and occupation.

Thus Legal regulations act as the **bridge** between constitutional ideals and real economic outcomes. They help the government promote fairness, reduce inequality, and protect rights. At the same time, courts ensure that regulations remain **reasonable, proportionate, and just**, thus maintaining a balance between **State intervention and economic liberty**.

Together, legal regulations and economic justice shape India's economic environment and guide the conduct of businesses and markets.

FY BBA SEM - 2
Subject – VAC – 201 Indian Constitution & business in India
Unit – 2 Fundamental Rights and Fiscal Federalism

1. INTRODUCTION

- The Constitution not only protects people's rights, but it also sets moral, economic, and social duties that both people and businesses must follow.
- Fundamental Rights protect people from exploitation, guarantee economic freedom, and make sure that everyone is treated equally.
- They also affect how businesses work and how people take part in economic activities.
- The Directive Principles also say what the State should do to create a society that is fair and helps everyone, such as protecting workers' rights, protecting the environment, and making sure the economy is fair.
- The Fundamental Duties add to this by making individuals and modern businesses responsible for upholding the spirit of the Constitution, which affects how companies are run and how ethical decisions are made.
- These constitutional provisions work together to provide a framework that balances commercial interests with the needs of society. This makes sure that economic growth happens in a fair, long-lasting, and socially responsible way.

2. FUNDAMENTAL RIGHTS AND THEIR BUSINESS IMPLICATIONS

- Fundamental Rights form the constitutional backbone of India's economic and business environment, shaping how individuals participate in trade, industry, and professional activities.
- These rights not only guarantee economic freedom but also ensure fairness, equality, and protection within the marketplace.
- Articles such as 19(1)(g), 14, 15, 23, and 300A together create a balanced framework where entrepreneurship can flourish while safeguarding workers, consumers, and vulnerable groups from exploitation or discrimination.
- The Supreme Court has repeatedly emphasised through landmark judgments that economic liberty must coexist with reasonable regulations designed to promote public welfare.
- Understanding these rights is essential because they directly influence how businesses operate, how markets function, and how economic justice is maintained in a rapidly evolving economy.
- Through this constitutional foundation, India aims to foster a system where innovation thrives, opportunities expand, and economic growth aligns with constitutional values and human dignity.

(1) Freedom of Trade, Profession, and Business – Article 19(1)(g)

- Article 19(1)(g) of the Indian Constitution states that everyone has the right to work in any field or profession.
- This right is what makes India's system of private companies work.

- It lets users start businesses, run stores, offer professional services, make things, and buy and sell things.
- Without this right, it would be exceedingly impossible to establish a firm or think of new ideas, and the economy would not grow.

- But this freedom isn't enough. Article 19(6) allows the government the right to set reasonable limits on items for the interest of the people.
- These guidelines are there to keep individuals, the environment, workers, and public health safe.
- A person can start a food business, but the government might demand them seek food safety licenses, observe cleaning rules, and have regular inspections. There are also a lot of rules about businesses that sell drugs, alcohol, or dangerous chemicals.

Chintaman Rao v. State of Madhya Pradesh (1950) is an important case that helps us understand Article 19(1)(g). In this case, the government stopped making bidis during the growing season to get more people to farm. The Supreme Court said that the statute was not lawful because it made it illegal for all businesses to operate. The Court made it clear that rules are okay, but they can't take away the right that Article 19(1)(g) gives. This case revealed that people should only be able to limit their commercial freedom if there is a strong and good cause for them to do so.

The Bitcoin Ban lawsuit (Internet and Mobile Association of India v. RBI, 2020) is another recent case. The RBI told banks they couldn't do business with bitcoin companies, which very much killed the crypto economy. The Supreme Court said that this kind of blanket ban was against Article 19(1)(g) because it was excessively harsh and there was no strong evidence that it would hurt people. This case indicates that Article 19(1)(g) still protects new businesses and original ideas.

(2) Right to Equality in Business – Articles 14 and 15

- Articles 14 and 15 make sure that businesses work in a fair and equitable setting. Article 14 stipulates that everyone is equal in the eyes of the law.
- This means that the government can't give one firm an unfair advantage over another. If the government issues out licenses for mining rights or telecom services, it must do so according to rules that are clear and fair.
- The courts can toss out any unjust or random distribution.
- You can't treat people differently because of their religion, caste, sex, or where they were born, according to Article 15.
- In the business sector, this rule makes sure that everyone has a fair chance at work and stops people from doing things that leave others out.
- Reservation laws are an exception, but they are supposed to make up for past wrongs and get more people that have been left out to join the market. Articles 14 and 15 work together to make the business environment fair and level the playing field.

(3) Right Against Exploitation and Labour Protection – Article 23

- It indicates that forced labour, bonded labour, and trafficking are all wrong.
- This safeguard is crucial so that employers and labour contractors can't take advantage of their workers.

- The law makes sure that the conditions are fair and not too hard on someone who agrees to work.
- This constitutional protection makes current labour regulations like the Minimum Wages Act, the Occupational Safety Codes, and the requirements for social security.
- For example, a factory that hires contract workers must pay them at least the minimum wage, ensure that their work environment is safe, and not force them to work for free or under threats. These rules make sure that people's rights and dignity at work are not harmed by economic prosperity.

(4) Right to Property – Article 300A

- Article 300A protects persons and businesses from having their property taken away without the law's approval, even though the Right to Property is no longer a fundamental right.
- This means that the government can't unilaterally take over businesses, land, factories, or stores whenever it wants.
- When the government buys land for public uses such as highways, metro projects, or industrial corridors, it must follow the law and pay the right amount.
- This protection is highly crucial for businesses to be stable. People that invest know that their money is safe and can't be stolen without a valid reason.
- This constitutional guarantee encourages long-term investments, industrial expansion, and better infrastructure.
- So, Fundamental Rights make sure that businesses can develop while keeping people secure.
- The most important part of economic freedom is Article 19(1)(g), but it works best when it is supplemented with fair laws, principles of equality, rights for workers, and protections for property.
- These rights, which are backed up by court decisions, help sure that India's economy stays creative, competitive, and responsible.

3. DIRECTIVE PRINCIPLES

The **Directive Principles of State Policy (DPSPs)** are in Part IV (Articles 36-51) of the Indian Constitution. These are the social and economic goals that the government should try to reach. Article 37 says that these concepts are very important for administering the country, but are not enforceable in any court. Their main goal is to make India a welfare state by promoting social equality, economic fairness, human dignity, and environmental protection.

Some of the Directive Principles are mostly about workers' rights, protecting the environment, and making the economy fair. This shows that the Constitution is dedicated to long-lasting growth that benefits everyone.

[3.1] Directive Principles Related to Labour Welfare

Labour welfare is an important part of social justice. The Constitution acknowledges the necessity of safeguarding workers from exploitation and ensuring humane working conditions.

Key Constitutional Provisions

- **Article 39 :** Directs the State to ensure that citizens have adequate means of livelihood and that workers are not exploited.
- **Article 39(d) :** Provides for equal pay for equal work for both men and women.

- **Article 41 :** Directs the State to provide the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disability.
- **Article 42 :** Calls for just and humane conditions of work and maternity relief.
- **Article 43 :** Encourages living wages and decent standards of life for workers.

These ideas were the basis for regulations about work, like laws about minimum pay, maternity leave, safety at work, and social security. They show that people think that economic prosperity shouldn't come at the expense of human dignity. The Directive Principles support social stability and economic fairness by defending workers' rights.

[3.2] Directive Principles Related to Environmental Protection

The 42nd Constitutional Amendment Act, 1976, made it clear that environmental issues are now part of the Directive Principles. This is done to illustrate that growth in the economy must be good for the environment.

Key Constitutional Provision

Article 48A : Directs the State to protect and improve the environment and safeguard forests and wildlife.

- Article 48A says that people need a healthy environment for their lives and the economy to develop.
- This approach has changed the regulations for maintaining biodiversity, limiting pollution, protecting forests, and regulating the climate.
- The right to life under Article 21 also encompasses the right to a clean and healthy environment, according to the courts.
- This has made the management of the environment stronger.
- Environmental Directive Principles make sure that growth doesn't affect the environment adversely, which means that growth is good for the long term.

[3.3] Directive Principles Related to Economic Justice

The Preamble of the Indian Constitution makes it plain that one of the key purposes is to make sure that everyone has a fair chance at making money. The Directive Principles show us how to reduce inequality and make sure that everyone has a fair share of resources.

- **Article 38 :** Directs the State to promote social and economic justice and reduce inequality in income, status, and opportunities.
- **Article 39(b) :** Ensures that ownership and control of material resources are distributed to serve the common good.
- **Article 39(c) :** Prevents concentration of wealth and means of production to the detriment of society.
- **Article 43A :** Encourages worker participation in management of industries.

- **Article 46 :** Promotes economic interests of Scheduled Castes, Scheduled Tribes, and weaker sections of society.

- These provisions allow the State the power to stop monopolies, move resources around, create welfare programs, and control business.
- These articles make land reforms, progressive taxes, firms in the public sector, and social security programs all legal.
- The goal is to make sure that everyone in society, not just a few lucky ones, benefits from economic progress.
- The Directive Principles that deal with labour welfare, environmental preservation, and economic fairness are the moral and constitutional basis for India's welfare state.
- They underline how important it is to respect employment, take care of the environment, and share money equitably.
- These principles guide laws and rules to make sure that economic growth is fair, kind, and healthy for the environment.
- They turn the Constitution from a legal document into a blueprint for building a fair and stable country.

4. FUNDAMENTAL DUTIES AND CORPORATE ETHICS

- **Article 51A** of the Indian Constitution specifies the Fundamental Duties that were first given to individual people.
- But businesses have a tremendous effect on society nowadays. They can make a big difference in people's lives, communities, the economy, and the environment.
- So, businesses need to follow the spirit of the Fundamental duties just as much as individuals do. Ethical enterprises help make society fair, safe, and long-lasting.
- Corporate ethics are the standards, moral obligations, and proper conduct that companies must adhere to.
- When businesses follow the Fundamental duties, they promote honesty, justice, accountability, and duty to society.

(1) Duty to Follow the Law and Respect the Constitution (Article 51A(a))

This duty means following the Constitution, the law, and the laws of democracy.
For corporate, this means :

- Following labour laws, tax laws, and environmental rules
- Practising transparent accounting and corporate governance
- Complying with guidelines of regulators such as RBI, SEBI, CCI, TRAI, and IRDAI.

A firm that follows the rules of the Constitution is honest and gains the trust of its customers, employees, and investors. For example, a business that honestly pays GST and gives out correct financial statements is doing its duty in a business setting.

(2) Duty to Promote Harmony and Avoid Discrimination (Article 51A(e))

This duty focuses on harmony, respect for women, and rejection of violence or discrimination.
Corporations fulfill this duty when they :

- Provide equal opportunities in hiring and promotions
- Maintain a workplace free from sexual harassment (POSH compliance)
- Promote diversity-across gender, region, caste, disability, and religion
- Avoid advertising that spreads stereotypes or social hatred.

An environment free of discrimination shows fairness and respect for others, which makes employees happier and more productive. For example, TCS and Infosys have diversity programs that give women, people with disabilities, and people from different social backgrounds the same chances.

(3) Duty to Protect and Improve the Natural Environment (Article 51A(g))

This duty has become extremely relevant for modern businesses, because industries often impact air, water, forests, and wildlife.

Corporations fulfil this duty by:
- Reducing emissions and pollution
- Following environmental clearances and waste-management rules
- Using energy-efficient and eco-friendly technologies
- Conducting Environmental Impact Assessments (EIA)
- Investing in sustainability initiatives through CSR

Corporate behaviour that is good for the environment makes sure that the company will last for a long time and doesn't hurt the environment.
For example, a lot of car firms in India have switched to electric cars and stricter emissions requirements (such Bharat Stage VI norms), which shows that they care about the environment.

Thus, Fundamental Duties serve as moral rules for how businesses should be conducted in India. When companies follow the rules of respecting the law, keeping the peace, and protecting the environment, they make corporate ethics stronger and help grow the country. When business firms make decisions that are in line with their constitutional duties, they become more than just profit-driven firms. They also become responsible and ethical organisations that support social welfare and sustainable development.

5. FISCAL FEDERALISM

- In a federal system like India, fiscal federalism means that the Constitution divides and shares financial duties and responsibilities between different levels of government of government, principally the Union (Central) Government and State Governments.
- It let you knows that who can collect and pay taxes, who is in charge of public spending, and how money is shared across governments to make sure that everything runs smoothly and that development is balanced.
- Part XII of the Constitution (Articles 268-281) is the main law that governs fiscal federalism in India. The Constitution makes it plain who has the authority to collect taxes.
- The Centre collects some taxes, the States collect others, and some taxes are shared.
- The Centre is in charge of national duties like defence and foreign relations, while the States are in charge of things like health, education, and farming.

- This split typically leads to a financial imbalance since states have to spend more yet have fewer ways to make money.
- The Constitution has ways to fix this problem, such as tax devolution, grants-in-aid, and recommendations by the Finance Commission.
- The Finance Commission and the GST Council are two examples of organisations that help the Centre and States work together and coordinate their efforts.
- The adoption of the Goods and Services Tax (GST) is a prominent example of cooperative fiscal federalism because both levels of government work together to set tax policies.
- So, fiscal federalism makes sure that the Indian federal structure has economic unity, financial independence, and balanced growth in all regions.

6. ARTICLE 301 TO 307: FREEDOM OF TRADE AND COMMERCE

- For national unity and long-term growth, economic integration is very important.
- The people who wrote the Constitution of India knew that a newly independent country with many different regions, languages, and economic situations could become economically fragmented.
- Part XIII (Articles 301-307) of the Constitution deals with trade, commerce, and intercourse within India.
- It was added to the Constitution to stop States from adopting internal trade obstacles and protectionist policies.
- The goal of these rules is to make a single economic market where commodities, services, and commercial activities can travel freely between states.
- The Constitution also says that sometimes, full economic freedom can be bad for the public good, national security, or social welfare.
- So, Articles 301-307 strike a careful balance between economic freedom and regulatory supervision, showing India’s commitment to cooperative federalism.

[6.1] Article 301 : Freedom of Trade, Commerce and Intercourse

- Article 301 establishes the fundamental idea of economic freedom by asserting that trade, business, and intercourse across India will be unrestricted.
- This freedom isn’t only about trading goods; it’s also about moving people, services, and business across state lines.
- The goal is to get rid of internal barriers that can make trade between states harder, like high taxes, limits on who can enter, or rules that are too severe.
- Article 301 says that India should be one big market instead of a bunch of separate regions that don’t trade with each other.
- This constitutional promise immediately helps businesses because it lets them reach new markets outside of their home states and save money by doing so.
- For instance, a manufacturing facility in Karnataka can send its goods all throughout the country without having to deal with unfair trade practices from other States.
- The courts have made it clear that Article 301’s freedom does not mean that there are no rules at all.
- The Supreme Court ruled in Atiabari Tea Co. v. State of Assam that only limitations that directly and immediately make it harder for trade to move are against Article 301. Generally, regulatory measures that make trade easier, like road fees that pay for infrastructure, are okay.

[6.2] Article 302 : Power of Parliament to Impose Restrictions in Public Interest

- Article 301 protects freedom, but Article 302 says that total freedom of trade may not always be good for the country.
- It gives Parliament the ability to limit trade, commerce, and sexual activity if those limits are needed in the public interest.
- This clause makes ensuring that economic activity doesn't take precedence over things like public health, national security, and fair access to basic necessities.
- For example, Parliament might stop food grains from being exported during shortages to make sure they are available in the country.
- In the same way, during emergencies like wars or pandemics, limits on the transportation of products may be put in place.
- Even if these steps temporarily hinder trade, they are allowed under the Constitution since they serve a larger social objective.
- Article 302 thereby strengthens the idea that economic freedom exists within a framework of social responsibility.

[6.3] Article 303 : Prohibition of Discriminatory Trade Laws

- Article 303 is very important for keeping the federal balance since it stops both Parliament and State Legislatures from making legislation that treat some States better than others in trade affairs.
- This rule makes sure that no area has an unfair economic edge because of political involvement.
- The Constitution does, however, allow for an exception if discrimination is needed to deal with a lack of commodities in a certain area.
- For instance, during a natural disaster, Parliament may put supplying afflicted States with basic goods ahead of other things.
- This flexibility makes ensuring that resources are fairly distributed during emergencies without being too strict.

[6.4] Article 304 : Regulatory Powers of States

- Article 304 says that states need certain regulatory power to defend local interests while still allowing free trade between countries.
- Article 304(a) says that states can tax commodities that come from other states, as long as the tax on imported goods must be same as tax imposed on similar goods produced in that state. This keeps fiscal sovereignty while also keep fair business practice between states fair.
- Article 304(b) says that states can put reasonable limits on trade in the public interest, but only if the President agrees.
- This constitutional protection makes sure that rules at the state level don't hurt the economy as a whole.
- For example, the state controls the sale of alcohol, mining, or forest products to preserve the health of the public and the environment.

[6.5] Article 305 : State Monopolies and Existing Laws

- Article 305 keeps laws that were passed before the Constitution went into effect and lets the State create monopolies in some areas.
- This part shows that India agrees with a mixed economy in which the public sector is the most important part of strategic industries.
- Even if they limit market participation, government monopolies in industries like railways, defence, and public distribution systems are legal under the Constitution.
- This makes sure that the state has authority over areas that are important to the country's interests and the well-being of its people.

[6.6] Article 306

- Article 306 was a temporary rule about trade in some parts of the northeast, however it has since been repealed.
- It is **no longer a part** of India's constitutional trade system.

[6.7] Article 307 : Appointment of Authority

- Article 307 gives Parliament the ability to create an authority to carry out and enforce the rules in Part XIII.
- This article doesn't provide an exclusive authority, but institutions like the GST Council and intergovernmental coordination mechanisms work in its spirit by encouraging trade policy consistency and collaboration.
- India's internal commerce system is based on Articles 301-307 of the Constitution.
- They let trade move freely while also allowing the government to make rules that are good for the public.
- This strikes a balance between economic freedom, social welfare, and federal collaboration.
- These rules stop the economy from breaking up, encourage national integration, and help India become a cohesive, competitive economy.
- Part XIII is becoming more and more important in light of recent changes like GST. This supports the Constitution's idea of one nation, one market.

7. CHALLENGES ASSOCIATED WITH FISCAL FEDERALISM IN INDIA

- Fiscal federalism is the financial backbone of India's federal structure. It decides how the Union and State governments will share money, authority, and resources.
- The Indian Constitution lays out a precise plan for fiscal federalism, but it has faced a number of problems in practice.
- These problems happen because some states are richer than others, there is an imbalance between the powers to collect taxes and the obligations to spend money, and new policies like the Goods and Services Tax (GST) are being put in place.
- To assess the effectiveness of Indian federalism and its influence on governance and development, it is crucial to comprehend these problems.

[7.1] Vertical Fiscal Imbalance Between Centre and States

- Vertical fiscal imbalance is one of the biggest problems with India's fiscal federalism.
- It happens when the Centre and the States have different authorities to raise money and spend it.

- The Union government is in charge of important and growing sources of money, such as income tax, customs duty, and corporate tax.
- The States, on the other hand, are in charge of providing corporate public services, such as health care, education, agriculture, and law and order.
- As a result, States often depend heavily on transfers from the Centre to meet their expenditure needs.
- This reliance diminishes financial autonomy and constrains the capacity of States to formulate policies that address local requirements.
- The Finance Commission's transfers are meant to fix this problem, but the gap is still a big problem in India's fiscal framework.

[7.2] Horizontal Imbalance Among States

- India also has horizontal fiscal imbalances, which means that certain states have more money than others.
- Some states are more developed than others and have strong industrial bases and larger tax receipts.
- Others are less developed and depend on help from the federal government.
- This difference makes it hard to share money fairly.
- Wealthier states typically say that they pay more in central taxes but get less back, while poorer states need greater transfers to grow.
- It is still hard for organisations like the Finance Commission to find a balance between fairness and efficiency in inter-state transfers, which makes horizontal imbalance a problem that won't go away.

[7.3] Dependence on Central Transfers and Reduced Fiscal Autonomy

- Another big problem is that states are becoming more and more dependent on central transfers, such as tax devolution, grants-in-aid, and centrally funded programs.
- Even though these transfers are vital for balanced development, the Centre typically puts limitations on them.
- Sometimes, Centrally Sponsored Schemes make it harder for states to change their spending and policies.
- This can weaken the spirit of cooperative federalism and create friction between the Centre and the States.
- States say that more unconditional transfers are needed to make local governments more accountable and independent when it comes to money.

[7.4] Challenges after the Introduction of GST

- The Goods and Services Tax (GST) was a big change for India's fiscal federalism. GST has helped build a single national market, but it has also brought up problems.
- States gave up a lot of their own tax powers in lieu of a common tax system run by the GST Council.
- The GST Council is centred on making decisions together, although sometimes states worry about getting paid late, not knowing how much money they will make, and having less control over tax rates.

- The reliance on GST compensation has brought to light problems with trust and cooperation between the Centre and the States, especially when the economy is slowing down.

[7.5] Issues in Resource Distribution and Predictability

- Fiscal federalism in India also has problems because revenues are often unstable and unpredictable, especially for the States.
- Changes in policy, economic shocks, or delays in the release of funds can mess up State finances and plans for development.
- Transfers that aren't predictable make it hard to prepare for the long term and put money into infrastructure.
- States sometimes have a hard time keeping their budgets in order while still making sure that important public services are available, especially during times of crisis like pandemics or natural catastrophes.

[7.6] Weak Local Government Finances

- Another big problem is that local administrations, including Panchayats and Municipalities, don't have enough money.
- The 73rd and 74th Amendments make decentralisation a constitutional goal, but local governments don't have many ways to make money and rely heavily on payments from the state and central governments.
- This makes grassroots fiscal federalism weaker and makes it harder for local governments to do their jobs well.
- Federal financial decentralisation won't fully benefit citizens unless local governments have the money to do their jobs.
- India's fiscal federalism is a system that is always changing and growing, yet it has several structural and operational problems.
- India's federal framework is still being tested by vertical and horizontal inequities, reliance on central transfers, worries about the GST, uncertainty about the budget, and insufficient finances for local governments.
- To deal with these problems, different levels of government need to work together more, be more open, and trust each other more.
- To achieve balanced growth, economic stability, and strong democratic governance in India, it is important to strengthen fiscal federalism.

8. ARTICLE 280 OF THE CONSTITUTION OF INDIA: THE FINANCE COMMISSION

- Article 280 of the Constitution of India establishes the Finance Commission, a vital constitutional body tasked with maintaining financial equilibrium and equity between the Union Government and the State Governments.
- In India, which is a federal country, different levels of government are in charge of varying amounts of money and spending. This means that there will always be conflicts and imbalances.
- Article 280 deals with these problems by setting up an independent and regular process that suggests how to share money in a way that promotes fairness, efficiency, and cooperative federalism.

- The people who wrote the Constitution knew that financial arrangements couldn't stay the same in a changing economy.
- Therefore, instead of fixing rigid financial formulas in the Constitution, they designed a flexible institution capable of responding to India's evolving economic and social needs.
- The Finance Commission thus acts as the financial referee of Indian federalism.
- Article 280 gives the President of India the power to set up a Finance Commission every five years, or sooner if needed.
- This mandate in the Constitution makes it clear how important it is to regularly assess the financial relationship between the Centre and the States.
- Parliament determines the rules on the Chairperson and four other members of the Commission.
- It is very important that the Finance Commission is independent since its recommendations affect the financial independence and growth potential of the States.
- The President sends the Commission issues and asks it to offer suggestions about them.
- These recommendations are not mandatory, but they have a lot of political and moral weight and the government usually follows them.

[8.1] Functions of the Finance Commission

- The main job of the Finance Commission under Article 280 is to suggest how to split up the net tax revenue between the Union and the States. This is often called **tax devolution**.
- It decides how much of the total amount of central taxes each state gets (vertical distribution) and how that amount is divided among the states (horizontal distribution).
- This function is very important for fixing India's vertical and horizontal budgetary imbalances.
- The Commission also suggests the rules for giving grants-in-aid to states from the Consolidated Fund of India.
- These awards help states that don't have a lot of money or have particular needs.
- The Finance Commission's job has grown throughout time. It now gives advice on how to fund disaster management and, after the 73rd and 74th Constitutional Amendments, how to help local governments like Panchayats and Municipalities with money.
- Article 280 makes ensuring that money is used in a way that is in line with the aims of social fairness, balanced regional development, and budgetary discipline.

[8.2] Role of Article 280 in Fiscal Federalism

- Article 280 is very important for developing fiscal federalism since it balances the Centre's financial power with the States' desire for growth.
- The Union government controls most of the money that comes in, but the States are in charge of providing most public services.
- The Finance Commission fills this gap by giving money to different places based on clear and fair criteria such as population, income level, geographic area, and fiscal effort.

- This system makes it less necessary to make discretionary transfers and builds trust across different levels of government. It also helps cooperative federalism by getting people to talk, consult, and come to an agreement on money issues.
- So, Article 280 is an important part of India’s constitution and its finances.
- The Constitution set up the Finance Commission to make it easier for the Centre and the States to work together on money matters in a fair and flexible way.
- It fixes problems with the budget, makes the state’s finances stronger, and encourages balanced growth all around the country.
- Article 280 is more than just a technical provision; it shows how the Constitution wants India to be run in a way that promotes cooperation, fairness, and shared responsibility.

CASES STUDIES (FOR REFERENCE)

CASE-1 : Rustom Cavasjee Cooper v. Union of India (1970) 1 SCC 248
(The Bank Nationalisation Case)
The R.C. Cooper case is one of the most important constitutional decisions in India’s economic history. It was filed after the Government nationalised 14 major commercial banks through the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969. Rustom C. Cooper, a shareholder of Central Bank of India, challenged the law, claiming that nationalisation violated various Fundamental Rights.

Cooper argued that the Act violated the right to property, the freedom to carry on business, and the right to receive fair compensation for property taken by the State. The government defended the move by saying nationalisation was necessary to serve the “public interest” and to ensure wider distribution of credit.

The Supreme Court delivered a historic judgment. It held that the policy of nationalising banks was not unconstitutional, but the 1969 Act was invalid because the method of compensation was unfair and the law was arbitrary, violating Article 14. The Court said that a law cannot take away a person’s property without offering a fair equivalent. It also recognised that even if the State acts for public good, the action must still meet constitutional standards of reasonableness.

One of the biggest contributions of this case was the “Doctrine of Direct Effect.” The Court ruled that a shareholder could challenge a law affecting the company because such action has a direct impact on his rights. This ended the older idea that company rights and shareholder rights were completely separate.

The judgment also marked a major shift in constitutional interpretation. The Court rejected the earlier Gopalan doctrine, which allowed each Fundamental Right to be interpreted separately. Instead, it emphasised that all rights must be read together, especially when economic rights and equality principles overlap.

The case reshaped economic governance in India. It ensured that nationalisation, acquisition, and large-scale economic policies must be carried out in a fair, non-arbitrary, and constitutionally valid manner. It remains a cornerstone for protecting business rights, property interests, and the rule of law in India’s economic framework.

CASE-2 : State of Rajasthan v. Mohan Lal Vyas (1971) AIR 2068
(Private Monopoly & Fundamental Rights – Not a Violation)

The case State of Rajasthan v. Mohan Lal Vyas deals with an important constitutional question: Does the confirmation or existence of a private monopoly violate the Fundamental Rights of citizens? The Supreme Court held that it does not, unless the State directly interferes with a person’s rights through an unreasonable or discriminatory law.

Mohan Lal Vyas challenged certain government actions related to the liquor business in Rajasthan. He argued that the policy effectively created a private monopoly, allowing only one trader to operate, which prevented him and others from participating in the trade. He claimed this violated Article 19(1)(g) – the right to carry on any trade or business.

The Supreme Court rejected this argument. It clarified that the Constitution does not prevent the existence of a private monopoly in the market. A monopoly becomes unconstitutional only if the State creates it through a discriminatory or arbitrary law. In this case, the monopoly arose because one person qualified for the licence and others did not. The State did not intentionally or unfairly exclude anyone. Therefore, the Court held that there was no violation of Article 14 or Article 19.

The Court explained that government regulation, especially in sensitive sectors like alcohol, must be judged based on reasonableness and public interest. The fact that only one person ended up with a licence does not mean the government violated anyone's rights. As long as the licensing process is transparent, competitive, and non-discriminatory, the results—whether monopoly or competition—are constitutionally valid.

This case is significant because it distinguishes between : a State-created monopoly (which can be unconstitutional), and
a market monopoly created naturally due to fair licensing or competition (which is not unconstitutional).

It reinforces the principle that Fundamental Rights protect citizens from arbitrary State action, not from ordinary market outcomes. The judgment is frequently cited in cases involving licensing, trade regulation, and challenges to business restrictions.

CASE-3 : Mithilesh Garg v. Union of India (1992) 1 SCC 168 | AIR 1992 SC 221 (Liberalisation of Business – No Violation of Fundamental Right)

The case Mithilesh Garg v. Union of India is a landmark judgment explaining that economic liberalisation and opening up a business sector to more participants does NOT violate Article 19(1)(g) of the Constitution. Instead, liberalisation enhances freedom to carry on trade or business.

The dispute arose when the Central Government liberalised the grant of stage carriage permits under the Motor Vehicles Act, 1988. Earlier, permits were difficult to obtain and tightly regulated, which protected existing operators. After liberalisation, many new operators were allowed to enter the market.

Existing bus operators, including Mithilesh Garg, challenged this policy and argued that allowing more competitors would hurt their business and reduce their profits. They claimed that such liberalisation violated their right to carry on trade under Article 19(1)(g).

The Supreme Court dismissed these claims. It held that the Constitution does not guarantee protection from competition. The right to carry on business does not include the right to be sheltered from new entrants or rivals. The Court emphasised that public interest must come before private profit.

The Court further explained that economic policies—including liberalisation—lie within the State's power, and courts should not interfere unless the policy is arbitrary, discriminatory, or unconstitutional. As long as the rules apply equally to all and are intended to improve public convenience, they are valid under Articles 14 and 19.

This judgment is important because it establishes that :

- Opening up markets increases economic freedom;
- Competition itself is not an infringement of Fundamental Rights;
- The State can adopt liberal economic policies to serve public welfare;
- Businesses cannot claim a right to monopoly or protectionism.

Mithilesh Garg is frequently cited in cases involving deregulation, competition, market entry, and economic policy reforms, reaffirming that the Constitution promotes openness, not exclusivity, in economic activity.

CASE-4 : Chintaman Rao v. State of Madhya Pradesh, AIR 1951 SC 118
(Defining "Reasonable Restrictions" under Article 19(1)(g))

Chintaman Rao v. State of Madhya Pradesh (1951) is one of the earliest and most important Supreme Court judgments explaining the meaning and limits of reasonable restrictions on the freedom of trade, profession, and business under Article 19(1)(g) of the Indian Constitution.

The case arose when the State issued an order under the Bidi and Cigar Workers Act that completely prohibited the manufacture of bidis during the agricultural season. The intention behind the order was to prevent agricultural labourers from abandoning farm work for bidi-rolling during the harvest period. However, this measure resulted in a total ban on the bidi business for several months.

Chintaman Rao, a bidi manufacturer, challenged the order on the ground that it violated his fundamental right to carry on trade and business under Article 19(1)(g).

The central issue before the Supreme Court was whether such an extreme prohibition could qualify as a "reasonable restriction" under Article 19(6). The Court held that the restriction was unconstitutional, primarily because it was not reasonable. Instead of regulating the activity, the State had imposed an absolute prohibition, which went far beyond what was necessary to achieve its objective.

The Court explained that reasonableness requires a balance between individual freedom and the State's interest in protecting the public. A law cannot be considered reasonable if it is excessive or disproportionate to the problem it seeks to address tries to address. Here, the government could have adopted less restrictive alternatives, such as regulating working hours or ensuring that a minimum agricultural workforce was available, rather than shutting down the entire industry.

This judgment laid down several foundational principles. It clarified that any restriction on business must not be arbitrary, excessive, or disproportionate, and that total bans are rarely justified unless there is a compelling public interest. It also established that the State must adopt the least restrictive method when limiting fundamental rights, and that courts have the power to review the reasonableness of economic regulations.

The case is significant because it set the early benchmark for evaluating restrictions on trade and industry, and continues to be cited in later economic liberty cases such as R.C. Cooper, Saghir Ahmad, and the RBI Bitcoin Ban judgment. A simple way to understand the principle is through an analogy: if the government banned all restaurants merely because some violate hygiene standards, such a ban would be unreasonable. The government should instead regulate, inspect, and enforce hygiene norms. This, the Court said, is exactly how the State should act-regulate, don't ban.

CASE-5 : Cooverjee B. Bharucha v. Excise Commissioner, Ajmer (AIR 1954 SC 220) (Reasonableness of Restrictions Depends on the Nature of the Business and Public Interest)

The decision in Cooverjee B. Bharucha v. Excise Commissioner, Ajmer (1954) is an important early Supreme Court judgment that clarifies how "reasonable restrictions" under Article 19(6) should be understood, particularly for trades that affect public health, safety, and morality. The case arose when the government of Ajmer auctioned licences for the sale of intoxicating liquor. Cooverjee Bharucha, one of the bidders, challenged the licensing and auction system, arguing that it violated his fundamental right to carry on business under Article 19(1)(g). He claimed that the restrictions were excessive, unfair, and amounted to the State monopolising a trade that should remain freely open to all.

The Supreme Court, however, rejected these arguments and upheld the State's regulatory power. The Court noted that the right to trade is not absolute, especially when the trade involves liquor, a commodity considered harmful, addictive, and socially dangerous. Because liquor can seriously affect public health, safety, and social morality, the State is justified in adopting stricter forms of control. The Court explained that the reasonableness of restrictions depends on the nature of the business: restrictions that may be unreasonable for ordinary trades-like garments, food products, or manufacturing-can be entirely valid for harmful trades such as liquor, gambling, or narcotics. In this context, the licensing system and auction method were found to be legitimate mechanisms that help regulate the number of sellers, ensure supervision, prevent misuse, and maintain discipline in a socially sensitive market.

A key principle from this case is that public interest must take priority over individual profit, especially where the business poses risks to the community. Thus, the Court recognised that the State has the authority to impose strong regulations-or even maintain exclusive control-over trades that could endanger public welfare. This judgment established the important constitutional idea that different kinds of businesses may require different levels of regulation, and that reasonable restrictions must be assessed with reference to the nature of the trade and its impact on society.

CASE-6 : T. B. Ibrahim v. Regional Transport Authority, Tanjore (AIR 1953 SC 79) (Reasonable Restrictions on Business and Public Interest in Transport Sector)

The case of T.B. Ibrahim v. Regional Transport Authority, Tanjore (1953) is a landmark Supreme Court judgment that clarifies how the government may regulate transport businesses under Articles 19(1)(g) and 19(6) of the Indian Constitution. The Court emphasized that road transport is not an ordinary business but a public utility service that directly affects public safety, traffic management, and the convenience of citizens. Because of this, the State has the constitutional authority to impose reasonable restrictions to ensure safe, efficient, and well-regulated transport services.

In this case, the Regional Transport Authority had introduced rules to control the number of transport permits, regulate routes, and improve overall safety conditions. T.B. Ibrahim, a private bus operator, challenged these regulations, arguing that they limited his business opportunities, were arbitrary, and violated his fundamental right to carry on trade under Article 19(1)(g).

The Supreme Court rejected these arguments and upheld the RTA's regulatory powers. It held that regulations such as route permits, limits on the number of buses, and licensing procedures are reasonable restrictions under Article 19(6). Since transport services involve thousands of passengers and have a major impact on road safety and public welfare, individual business freedom cannot be placed above community safety. Importantly, the Court clarified that regulation does not amount to prohibition – Ibrahim was not prevented from conducting his business; he was only required to follow rules that ensured safe and organized transport operations. The judgment made it clear that in sectors involving public services, the State may impose stricter controls, even if these controls limit individual profits or market expansion.

This case established a key constitutional principle: when a business relates to public safety or essential services, the government can legitimately enforce strong regulatory measures in the larger public interest. The ruling has had lasting influence, shaping modern regulatory frameworks for bus services, auto-rickshaws, taxis, and even contemporary services like Ola and Uber. It continues to guide courts and policymakers when balancing the freedom of business with the safety and welfare of the public.

CASE-7 : Harman Singh v. Regional Transport Authority, Calcutta (AIR 1954 SC 190) (Reasonable Restrictions and Public Interest in Transport Regulation)

The case of Harman Singh v. Regional Transport Authority, Calcutta (1954) is an important Supreme Court decision explaining how transport regulations-such as permits, route limits, and operational conditions-fit within the constitutional framework of Article 19(1)(g) (freedom to carry on business) and Article 19(6) (reasonable restrictions). The Court reaffirmed that transport services constitute a public utility, and therefore strong regulatory oversight is both necessary and constitutionally valid.

In this case, Harman Singh, a bus operator, applied for a transport permit, which the Regional Transport Authority refused on grounds such as route capacity, the existing number of buses, traffic management concerns, and passenger safety. Singh argued before the Court that the denial was arbitrary, discriminatory, and violative of his fundamental right to carry on a business.

The Supreme Court rejected these claims and upheld the decision of the RTA. It observed that road transport directly affects passenger safety, traffic flow, public convenience, and the overall functioning of urban transport systems. Because of these factors, the State must regulate the number of permits and control transport services to ensure orderly and safe movement on public roads.

Crucially, the Court clarified that Article 19(1)(g) does not grant any person an automatic or absolute right to obtain a transport permit. Permit allocation is an administrative function based on technical assessments and the larger public interest. Since the RTA had relied on objective considerations such as road capacity, transport demand, and safety issues, the Court held that the restrictions imposed were "reasonable" under Article 19(6).

The Court further noted that the statutory procedure prescribed under the Motor Vehicles Act had been followed properly, and therefore there was no violation of Article 14 (equality before the law) or Article 19(1)(g). This judgment established the principle that transport permits may be limited, regulated, or even refused if public welfare requires it, and such regulation does not violate fundamental rights. The case continues to guide courts and policymakers in balancing business freedom with public safety and regulatory necessity.

CASE-8 : Dwarka Prasad Laxmi Narain v. State of Uttar Pradesh (AIR 1954 SC 224)
(When Government Regulation Becomes Excessive and Unconstitutional)

Dwarka Prasad Laxmi Narain v. State of U.P. is a landmark Supreme Court decision that clarifies the limits of governmental control over trade and business. The case emphasises that while the State can regulate trade in the public interest, such regulation must be reasonable, guided, and non-arbitrary; otherwise, it violates Article 19(1)(g), which guarantees freedom of trade, and Article 14, which ensures equality before the law. The dispute arose when the Uttar Pradesh government issued the U.P. Coal Control Order, 1953, requiring coal dealers to obtain licences and granting extremely wide and unguided powers to the Licensing Authority. These powers included issuing or refusing licences without clear criteria, cancelling licences without providing reasons, and even granting monopoly rights to any person at the government's discretion. Dwarka Prasad, a coal dealer, challenged this scheme as unconstitutional.

The central issue before the Court was whether the restrictions imposed by the Coal Control Order amounted to unreasonable limitations on the freedom to carry on business under Article 19(1)(g). The Supreme Court struck down key parts of the Order, holding that the Licensing Authority's uncontrolled discretion to grant, refuse, or cancel licences amounted to an unreasonable restriction under Article 19(6). The Court observed that such unlimited powers "open the door to discrimination and corruption." Further, the absence of clear guidelines or standards for exercising these powers made the Order arbitrary, resulting in a violation of Article 14. The Court clarified that although the State is entitled to regulate essential commodities in the public interest, such regulation must be fair, reasonable, and based on transparent criteria. The provision allowing the government to grant exclusive monopoly licences without any guidelines was also declared invalid.

The judgment established an important constitutional principle: trade regulation is legitimate, but arbitrary and unguided governmental powers are unconstitutional. This case significantly strengthened protection against administrative arbitrariness, shaped future judicial scrutiny of licensing laws, and influenced modern regulatory frameworks such as GST licensing, mining permits, and drug control mechanisms. In simple terms, the Court held that a law allowing an official to approve or reject business licences without giving reasons—something that could easily lead to favouritism—cannot stand.

CASE-9 : State of Bombay v. R. M. D. Chamarbaugwala (AIR 1957 SC 699)
(Whether Gambling and Prize Competitions Are "Trade or Business" Under Article 19(1)(g))

State of Bombay v. R.M.D. Chamarbaugwala (1957) is a landmark Supreme Court judgment that established a crucial constitutional principle: activities based primarily on gambling, chance, or those harmful to society do not qualify as "trade, business, or profession" under Article 19(1)(g). Because such activities lack social value and can cause moral or economic harm, the State is fully empowered to regulate or even prohibit them without violating fundamental rights.

The case arose when Chamarbaugwala conducted prize competitions in which participants submitted entries along with a fee, hoping to win cash prizes. The State of Bombay imposed strict controls and taxes on these competitions under the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948. Chamarbaugwala argued that these competitions were a legitimate business and that the restrictions infringed his freedom to carry on trade under Article 19(1)(g). The core question before the Supreme Court was whether such prize competitions, heavily dependent on chance, enjoyed the constitutional protection granted to lawful business activities.

The Court ruled decisively that gambling-related activities are not legitimate forms of trade. It stated that gambling is "inherently harmful and injurious to the public," and therefore cannot claim the same constitutional safeguards as ordinary business. Since gambling does not fall within the scope of Article 19(1)(g), there is no fundamental right to conduct such activities, and the government may regulate, restrict, or ban them altogether. The Court also drew a clear distinction between games of skill—which may qualify as trade—and games of chance, which are essentially gambling and thus fall outside constitutional protection. Because Chamarbaugwala's prize competitions relied predominantly on chance, they were classified as gambling.

Importantly, the Court held that the test of "reasonable restrictions" under Article 19(6) does not apply when the activity itself is outside Article 19(1)(g). The judgment emphasised the State's responsibility to uphold public morality and prevent socially harmful activities. This decision became a foundational precedent for India's gambling laws and continues to influence modern issues such as lotteries, casinos, online betting, and the distinction between skill-based fantasy sports and chance-based games.

In simple terms, if a person runs a business like an online lucky draw where winners are chosen randomly after paying money, they cannot claim a constitutional right to conduct that business. The State can lawfully restrict or ban it altogether—an approach firmly rooted in the Chamarbaugwala ruling.

CASE-10 : Parbhani Transport Cooperative Society Ltd. v. Regional Transport Authority, Aurangabad (AIR 1960 SC 801)
(Validity of Restrictions in Granting Transport Permits under Article 19(1)(g))

This Supreme Court judgment is crucial for understanding how the government may regulate public transport and how such regulation interacts with the freedom to carry on trade or business under Article 19(1)(g). The case arose when the Parbhani Transport Cooperative Society applied for a stage carriage permit to operate buses. The Regional Transport Authority (RTA) rejected the application and instead granted the route to a State Transport Undertaking. The Society argued that this refusal violated its fundamental right to conduct business, created a State monopoly, and amounted to arbitrary discrimination.

The central issue before the Court was whether the denial of a transport permit infringed the applicant's rights under Article 19(1)(g). The Supreme Court held that it did not. It emphasized that the transport industry is a highly regulated sector because it directly affects public safety, convenience, traffic management, and road capacity. Therefore, the right to conduct transport business is not absolute and is subject to reasonable restrictions under Article 19(6). The Court clarified that there is no fundamental right to obtain a transport permit; submitting an application does not guarantee acceptance. Authorities are empowered to deny permits when required in the public interest, such as when the State undertaking can provide more efficient service, when roads are saturated, or when safety concerns arise.

A significant aspect of the ruling is the Court's affirmation that a State monopoly in public transport is constitutionally valid, supported by Article 19(6)(ii). The government may legitimately exclude private operators if doing so benefits the public. The RTA's decision was also found to be non-arbitrary because it was based on relevant factors like traffic conditions, existing services, and administrative needs.

The judgment lays down the principle that licensing in essential public services is a permissible restriction on the freedom of trade, and courts will not interfere unless authorities act without justification. Its significance extends to modern regulatory contexts involving bus and taxi permits, government-run transport systems, and competition between private operators and state enterprises. In simple terms, if a private company seeks a bus permit on an already crowded route, the RTA may refuse it for safety or public convenience, and such refusal does not violate any fundamental right.