UNIT–1 : Introduction & Basic Features (PYQ Solution)

AKTU · Constitution of India (BNC501 / BNC601) · Solutions by **Chirag Jain**, Ycotes

SECTION A Answers (≈70 Words Each)

Q1. Explain the meaning of constitutionalism. (Jan 2026, Dec 2025, Jan 2025)

Constitutionalism is the doctrine that government must function within limits set by a constitution. It holds that power is not absolute and must be exercised according to rules, not the personal will of rulers. Its key elements are the rule of law, separation of powers, fundamental rights, an independent judiciary and accountability of the government to the people. In India the Constitution is supreme, and every organ of the State derives its authority from it.

Q2. Mention one feature that highlights the unitary bias of the Indian Constitution. (Jan 2026, Dec 2025)

The Indian Constitution is federal in form but has a unitary bias at the time of need. One striking feature is single citizenship and a single integrated judiciary for the whole country. Another is the power of Parliament under Article 249 and 252 to legislate on State subjects, and the power of the President to impose Emergency (Articles 352 and 356), when the Union takes over State functions. Governors are also appointed by the Centre. These features let the Union dominate the States in crisis.

Q3. State one major function of the Constituent Assembly of India. (Jan 2026, Dec 2025)

The main function of the Constituent Assembly was to frame the Constitution of India. It met first on 9 December 1946 under Dr. Sachchidananda Sinha and later elected Dr. Rajendra Prasad as its President. Its Drafting Committee, chaired by Dr. B. R. Ambedkar, prepared the draft, and the Constitution was

adopted on 26 November 1949 and came into force on 26 January 1950. It also acted as the interim Parliament till 1952.

Q4. What are the types of amendments provided under Article 368 of the Constitution? (Jan 2025)

Article 368 provides three ways of amending the Constitution. First, amendment by simple majority of Parliament, which is outside Article 368 (for example, formation of new States, citizenship). Second, amendment by special majority: two-thirds of members present and voting plus a majority of total membership of each House. Third, amendment by special majority plus ratification by at least half of the State legislatures, used for federal matters such as the election of the President, Supreme Court and High Courts, and distribution of legislative powers.

Q5. What are the primary sources of law in India? (Jan 2025)

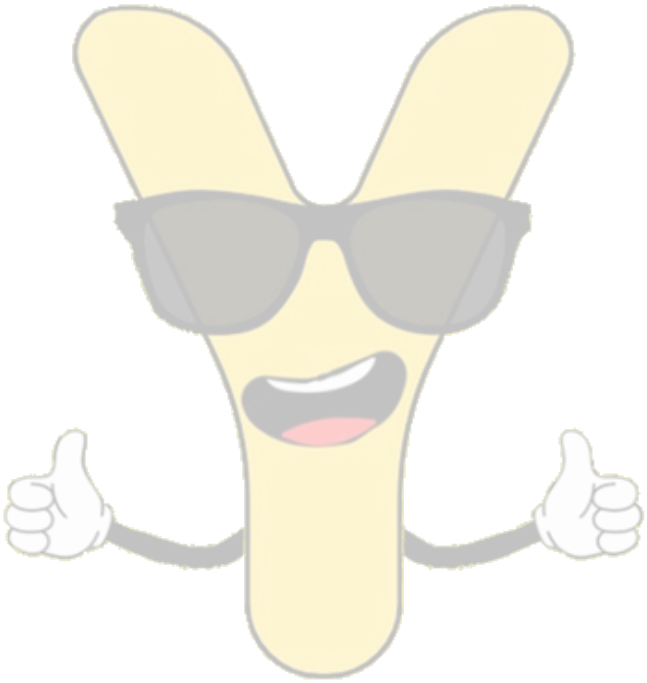
The primary sources of law in India are the Constitution, which is the supreme law, and legislation made by Parliament and State legislatures (statutes). Others are delegated legislation (rules, regulations and bye-laws made under an Act), judicial precedents (binding decisions of the Supreme Court and High Courts under Articles 141 and 215), and customs and usages recognised by courts. Personal laws and international treaties, once enacted by Parliament, also act as sources of law.

Q6. Evaluate federal system. (Feb 2024)

A federal system divides power between a central government and regional governments, each independent in its own sphere. Its features are a written constitution, distribution of powers (Union, State and Concurrent Lists), supremacy of the Constitution, an independent judiciary to settle disputes, and a rigid amending procedure. India is described as "quasi-federal" or a "Union of States" (Article 1) because it is federal in structure but has a strong Centre, single citizenship, emergency powers and a Governor appointed by the Centre.

Q7. What is sole trader? (Feb 2024)

A sole trader (sole proprietorship) is a business owned, managed and controlled by one person. The owner invests the capital, takes all decisions, receives all profits and bears all losses personally. It has unlimited liability, so personal assets can be used to pay business debts. It is easy to start, needs no separate legal formalities and offers secrecy and quick decisions, but its capital and life are limited to the owner. Examples are a small grocery shop or a tailoring unit.



SECTION B Answers (≈250 Words Each)

Q1. Discuss the formation of constituent assembly. (Feb 2024)

The **Constituent Assembly** was the body that framed the Constitution of India. It was formed under the **Cabinet Mission Plan, 1946**, which proposed that the assembly be elected by the members of the **Provincial Legislative Assemblies** through indirect election.

Composition

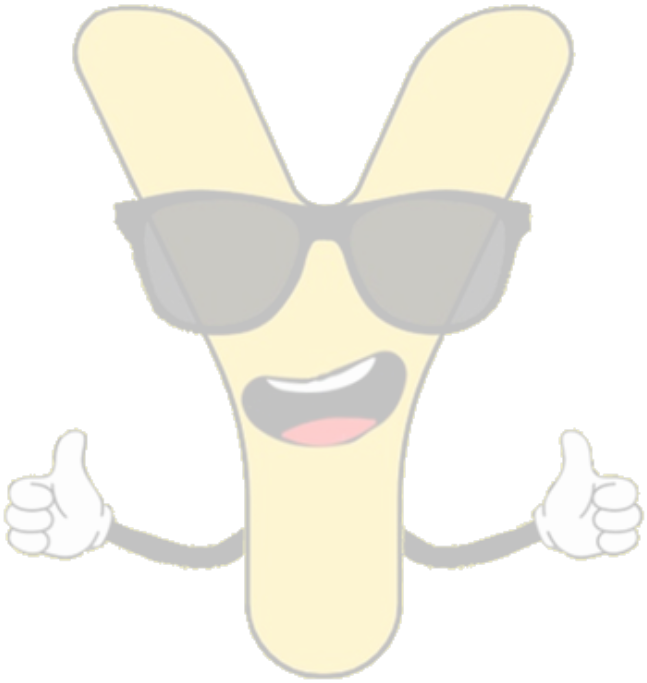
- Total strength planned: **389 members**: 292 from British Indian Provinces, 4 from Chief Commissioner's Provinces and 93 from Princely States.
- Seats were allotted in proportion to population (about one member per 10 lakh people) among **General, Muslim and Sikh** communities.
- The Congress won 208 seats and the Muslim League 73 in the provincial elections of July-August 1946.
- After Partition the strength fell to **299**.

Working

- First meeting: **9 December 1946**, with Dr. Sachchidananda Sinha as temporary President. **Dr. Rajendra Prasad** became permanent President on 11 December 1946.
- The **Objectives Resolution** moved by **Jawaharlal Nehru** on 13 December 1946 became the base of the Preamble.
- The **Drafting Committee** under **Dr. B. R. Ambedkar** was set up on 29 August 1947. **B. N. Rau** was constitutional adviser.
- The assembly held **11 sessions over 2 years, 11 months and 18 days**.
- The Constitution was adopted on **26 November 1949** and came into force on **26 January 1950**.

Item	Detail
Plan	Cabinet Mission, 1946
Election	Indirect, by Provincial Assemblies
President	Dr. Rajendra Prasad
Drafting Committee chair	Dr. B. R. Ambedkar

Thus the Constituent Assembly was a representative body that gave India a detailed written Constitution.



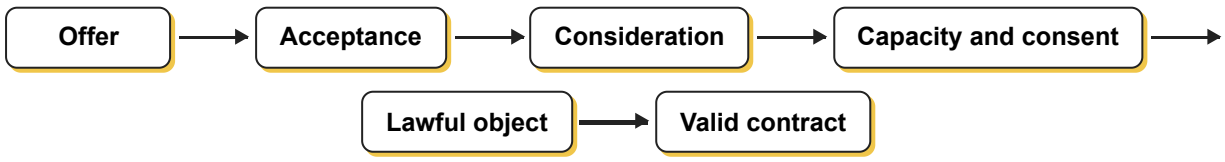
SECTION C Answers (≈500 Words Each)

Q1. Explain the concept of contract law and discuss the essential elements of a valid contract. Also discuss the need and importance of contract laws under the legal system. (Jan 2026, Dec 2025, Feb 2024)

Contract law is the branch of law that governs agreements between parties which the law will enforce. In India it is contained in the **Indian Contract Act, 1872**. Under **Section 2(h)**, "a contract is an agreement enforceable by law". Thus **Contract = Agreement + Enforceability**.

Essential elements of a valid contract (Section 10)

1. **Offer and acceptance:** a lawful offer by one party and its absolute and unconditional acceptance by the other, which form an agreement.
2. **Intention to create legal relations:** social or domestic agreements normally lack this; commercial ones have it.
3. **Lawful consideration:** something in return (cash, goods, a promise) which may be past, present or future, and must be lawful. "No consideration, no contract" (with exceptions in Section 25).
4. **Capacity of parties:** parties must be **major (18 years)**, of **sound mind** and not disqualified by law. Agreements with minors are void ab initio (Mohori Bibee v. Dharmodas Ghose).
5. **Free consent:** consent must not be caused by **coercion, undue influence, fraud, misrepresentation or mistake** (Section 14).
6. **Lawful object:** the purpose must not be illegal, immoral or against public policy (Section 23).
7. **Not expressly declared void:** for example, agreements in restraint of marriage or trade, or wagering agreements.
8. **Certainty and possibility of performance:** the terms must be clear and capable of being performed.
9. **Legal formalities:** writing and registration where the law requires them.



Building blocks of a valid contract

Types by validity: valid, void, voidable (at the option of the aggrieved party), illegal and unenforceable.

Need and importance of contract law

- Gives **certainty and security** to commercial dealings, since promises can be enforced.
- Provides **remedies** for breach: damages, specific performance, injunction and restitution.
- Protects **weaker parties** from fraud and undue influence.
- Supports **trade, banking, employment, construction and technology**, including e-contracts.
- Reduces disputes by laying down clear rules, and promotes trust and economic growth.

Conclusion: a contract is valid only when all the essential elements are present, and the law of contract provides the backbone of the legal and commercial system.

Q2. Explain the types of business organizations like sole traders, partnerships and companies, and describe how a company is formed under the Companies Act. (Jan 2026, Dec 2025)

A **business organization** is the legal form in which a business is owned and run. The main forms are the sole proprietorship, partnership and company.

1. Sole trader: owned and managed by **one person**.

- Easy to start, full control, all profits, and quick decisions.
- **Unlimited liability**, limited capital and uncertain continuity.

2. Partnership (Indian Partnership Act, 1932): two or more persons agree to share profits of a business.

- More capital and skills, flexible management.
- **Unlimited and joint liability**, risk of disputes, dissolution on death. **LLP** (LLP Act, 2008) gives limited liability.

3. Company (Companies Act, 2013): an artificial legal person with a **separate legal existence**, **limited liability**, **perpetual succession** and transferable shares.

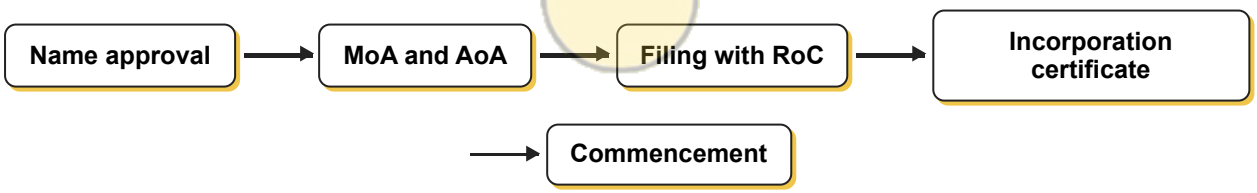
- Types: **private** (2-200 members), **public** (minimum 7 members), one person company, and government or foreign company.

- Pros: large capital, professional management, continuity. Cons: strict legal compliance, high cost and less secrecy.

Feature	Sole trader	Partnership	Company
Owners	1	2 or more	Shareholders
Liability	Unlimited	Unlimited (not in LLP)	Limited
Legal entity	No	No	Yes
Continuity	Uncertain	Uncertain	Perpetual
Regulation	Least	Moderate	Highest

Formation of a company

1. **Obtain DIN and DSC** for directors and **reserve the name** with the Registrar of Companies (RoC) through the MCA portal (SPICe+ form).
2. **Prepare documents: Memorandum of Association (MoA)**, stating name, registered office, objects, liability and capital, and **Articles of Association (AoA)**, stating internal rules.
3. **File** the documents, declarations, consent of directors and fee with the RoC.
4. **Certificate of Incorporation** is issued: the company is born as a legal entity, and PAN and TAN are allotted.
5. **Capital raising:** a public company issues a **prospectus** and allots shares; a private company can start at once. Under the 2013 Act no separate commencement certificate is needed, but a **declaration of commencement of business (Form INC-20A)** must be filed.



Steps in forming a company

Conclusion: the choice of organization depends on capital, risk and control, and a company is best for large-scale business.

Q3. What is the significance of the Preamble of the Constitution? Explain its key components. Discuss the Preamble and the Fundamental Rights

defined. (Jan 2025, Feb 2024)

The **Preamble** is the introduction to the Constitution, which expresses its philosophy and goals. It was based on the **Objectives Resolution** of Nehru and amended once, by the **42nd Amendment (1976)**, to add **Socialist, Secular and Integrity**.

Text (key components)
"We, the people of India, having solemnly resolved to constitute India into a **Sovereign, Socialist, Secular, Democratic Republic**, and to secure to all citizens **Justice, Liberty, Equality and Fraternity**..., adopt, enact and give to ourselves this Constitution."

- **Source of authority:** "We, the people" shows that power comes from the people.
- **Sovereign:** free from outside control. **Socialist:** social and economic equality. **Secular:** no State religion, equal respect to all faiths. **Democratic:** rule by the people. **Republic:** elected head of State.
- **Objectives: Justice** (social, economic, political), **Liberty** (thought, expression, belief, faith, worship), **Equality** (status and opportunity), **Fraternity** (dignity of the individual, unity and integrity of the nation).
- **Date of adoption:** 26 November 1949.

Significance

- Key to the **mind of the framers** and aid in interpretation of ambiguous provisions.
- Not enforceable in court, but part of the Constitution (**Kesavananda Bharati, 1973**; earlier, Berubari Union, 1960, held it was not).
- Shows the **basic structure** and ideals.

Fundamental Rights (Part III) translate Preamble ideals into enforceable rights: **Equality (Arts. 14-18), Freedom (19-22), Exploitation (23-24), Religion (25-28), Cultural and Educational (29-30)** and **Constitutional Remedies (32)**. They bind the State and can be enforced in the Supreme Court and High Courts.

Preamble ideal	Related Fundamental Right
Justice	Articles 14, 21, 32
Liberty	Articles 19, 25
Equality	Articles 14-18
Fraternity	Articles 17, 29

Conclusion: the Preamble is the soul of the Constitution, and Fundamental Rights are the means by which its ideals reach the citizen.

Q4. What are the roles and responsibilities of municipalities under the 74th Constitutional Amendment? (Jan 2025)

The **74th Constitutional Amendment Act, 1992**, added **Part IXA (Articles 243P-243ZG)** and the **12th Schedule**, giving **constitutional status** to urban local bodies.

Structure

- Three types: **Nagar Panchayat** (transitional area), **Municipal Council** (smaller urban area) and **Municipal Corporation** (larger urban area).
- **All seats directly elected** from wards; **reservation** for SC, ST and **one-third for women**.
- **Five-year term**; elections by the **State Election Commission**; if dissolved, elections within six months.
- **Ward Committees** in towns of over 3 lakh population, and a **District Planning Committee**.
- A **State Finance Commission** every five years.

Roles and responsibilities (12th Schedule, 18 functions)

- **Urban planning** and town planning, regulation of land use and construction of buildings.
- **Water supply** for domestic, industrial and commercial use; **public health, sanitation**, solid waste management.
- **Roads and bridges**, fire services, street lighting, public transport.
- **Slum improvement**, urban poverty alleviation and housing.
- **Parks, gardens**, playgrounds, burial grounds, cattle ponds, and protection of the environment.
- **Regulation of slaughter houses**, vital statistics (births and deaths), and promotion of cultural, educational and aesthetic aspects.
- **Economic and social development planning.**

Finance: property tax, user charges and other taxes assigned by the State, grants from the State and Union.

Municipalities thus act as the **third tier of government**, promoting local self-government. Challenges include limited funds, dependence on States and

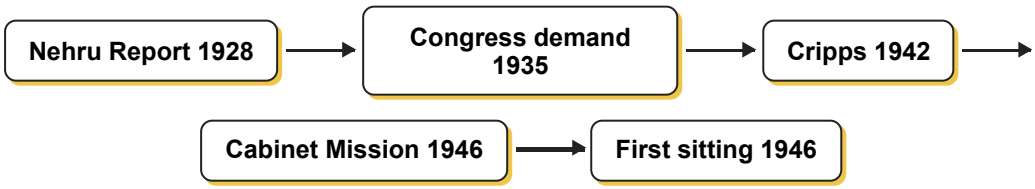
overlapping agencies.

Q5. Write a short note on the historical background of the constituent assembly. (Feb 2024)

The demand for a Constituent Assembly grew gradually through the freedom struggle.

Milestones

- **1895:** the Constitution of India Bill, inspired by Tilak, put forward ideas for self-rule.
- **1922: Mahatma Gandhi** asserted that Indians must decide their own constitution.
- **1928:** the **Nehru Report** by Motilal Nehru, the first major Indian attempt at a draft constitution, with fundamental rights and dominion status.
- **1934-35:** M. N. Roy and the Swaraj Party demanded a Constituent Assembly; the **Congress** formally adopted the demand in **1935** and repeated it at Faizpur (1936).
- **1935:** Government of India Act, with federal structure and provincial autonomy, which became the base of the later constitution.
- **1940: August Offer**, the British accepted the right of Indians to frame their own constitution after the war, though not clearly.
- **1942: Cripps Mission** promised a Constituent Assembly after the war, with right of provinces to stay out.
- **1946: Cabinet Mission Plan** (May 1946) laid down the scheme: indirect election by Provincial Assemblies, 389 members, and a Union with limited powers.
- **9 December 1946:** the first meeting. After the **Indian Independence Act 1947**, it became a fully sovereign body.



Road to the Constituent Assembly

The Assembly drew on this long background, and finished the Constitution on **26 November 1949**.
