

# **Constitutional Law and Public Administration in India**

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**Lecture-01**

## **Schedules of the Indian Constitution**

Generally, in most legal documents, there are annexures or attachments, which usually are explanations to the main provisions. The 12 Schedules in the Constitution also add to the length and the bulk of the Constitution. Originally, the Indian Constitution had only 8 Schedules and later 4 more Schedules were added. The First Schedule of the Constitution, which covers Article 1 and 4, deals with the names of the states and union territories and their jurisdiction.

The Second Schedule deals with the provisions of emolument, allowances, and privileges of a lot of Constitutional functionalities. For example, the emolument, allowance and privilege of the President of India, the Governor of different states, the Speaker, the Deputy Speaker of the Lok Sabha, the Chairman and the Deputy Chairman of the Rajya Sabha, the Speaker and Deputy Speaker of the legislative assembly, the Chairman and Deputy Chairman of the legislative councils in the state, the judges of the Supreme Court, High Court and finally, the Comptroller and Auditor General of India are mentioned in the Second Schedule. The functions of the Constitutional functionaries have been mentioned in the following articles 59, 65, 75, 97, 125. This is not necessarily an exhaustive list of articles, but some of the articles which deal with these Constitutional functionaries and their emoluments, privileges are mentioned in the Second Schedule. So, the powers are mentioned in the main part of the Constitution. But the privileges and allowances that are mentioned in the Second Schedule.

The Third Schedule of the Constitution is about the forms of oath or affirmation that must be taken by the Constitutional functionaries. These pertain to articles of the Indian Constitution, which are mentioned in the second Schedule. It includes Articles 188 and 219 as well. The forms of oath or affirmations or the oath being administered to the union minister, those who have elected members of parliament, the judges of the Supreme Court, the Comptroller and Auditor General of India, state ministers, members of the legislative assembly are all mentioned in the Third Schedule

The Fourth Schedule is about the allocation of seats in the Rajya Sabha to the states and the union territories. And these pertain to articles 4 and 80 of the Constitution of India. The Sixth Schedule of the Constitution comes to the rescue of administration of tribal areas, especially in the state of Assam, Meghalaya, Tripura, and Mizoram. These are also Scheduled tribe areas, but they are mentioned in the Sixth Schedule, because they are in the north-east and they have been accorded special status in the Constitution in terms of the autonomous administration.

The Seventh Schedule of the Constitution is the most popular of all the Schedules, because it is about the division of power between the union and states in terms of List 1, which is called the Union List, List 2, which is called the State List. And then there is a List 3 as well, which is called the Concurrent List. The Union List contains around 98 subjects on which the union government has the power to legislate and govern in this country. The State List contains nearly 59 subjects. The federal structure in this country is heavily centralized; there are more powers granted to the central government, just by the sheer number of subjects that are being allocated to the central government. And the Concurrent List contains around 52 subjects. Originally, the Concurrent List had only 47 subjects, with a few amendments, 5 more subjects have been added. The Concurrent List can also be dominated by the central government. So, more than 145 subjects are there on which the central government can legislate upon and that is how this federation has strengthened centralization in this country.

The Eighth Schedule is about languages recognized by the Constitution. Originally, only 14 languages were recognized by the Constitution, but presently there are 22 languages that are recognized in the Constitution. Some of the popular ones are Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Marathi, Punjabi, Sanskrit, Sindhi, Tamil, Telugu, Urdu, Malayalam, Dogri and Bodo. Sindhi was added through an amendment in 1967 and Manipuri and Nepali were added by the 71<sup>st</sup> amendment and Marathi was brought about by the 92<sup>nd</sup> amendment and the 96<sup>th</sup> Constitutional Amendment changed the spelling of Oriya to Odia in 2011. Articles 344 and 351 pertain to the languages.

The Ninth Schedule is a controversial Schedule because it is about land reform. This Schedule was added by the 1<sup>st</sup> amendment of 1951. It contains Acts and regulations of the state legislature dealing with land reform and abolition of the Zamindar system. This Schedule was created to protect these legislations from judicial scrutiny because the land reform and the Zamindar system directly affected the right to property which is a fundamental right and to give them special status from the scrutiny of the judiciary and from the interference of the judiciary. Once a legislation is brought under the 9th Schedule, judicial review and scrutiny of such legislation could be avoided and right to property could be trampled upon by the state. However, in 2007 the Supreme Court ruled that even the legislations in 9th Schedule will be subject to judicial scrutiny, diluting the original purpose

of the 9<sup>th</sup> Schedule. Judicial scrutiny is important and critical as it brings in a sense of accountability and no such law should be beyond the scope of the Constitutional courts.

The Tenth Schedule is quite controversial. This Schedule talks about the disqualification of members of parliament and state legislatures on the ground of defection. This is called the 'anti-defection' law. This was added in 1985 through the 52<sup>nd</sup> amendment. This is a very important aspect of public policy in this country.

The Eleventh Schedule is about the specific powers, authority, and responsibility of the panchayats and this was brought about by the 73<sup>rd</sup> amendment in 1992. This Schedule has nearly 29 matters that are supposed to be dealt by panchayats. So, that is how devolution of power was supposed to happen at least Constitutionally on paper. The Twelfth Schedule was added by the 74<sup>th</sup> amendment act of 1992 talks about the powers, authority, and responsibility of the municipalities. It also has around 18 matters and this Schedule.