# Introduction to Forensic Nursing and Indian Laws — Unit 4: Introduction of Indian Constitution

## Indian Constitution

### Definition

- The **Constitution of India** is the country's supreme legal framework, establishing government institutions, their powers and the rights of people.
- Ordinary laws and government action must remain consistent with constitutional requirements.
- It was adopted on **26 November 1949** and came into force principally on **26 January 1950**.

### Purpose

- The Constitution distributes powers between the Union and states and provides a framework for democratic government.
- It protects rights, establishes independent courts and guides the State towards social and economic justice.
- Its principles are relevant to nursing because patients retain dignity, equality and legal protection while receiving care.

### Preamble

- The **Preamble** introduces the Constitution's basic ideals and describes India as sovereign, socialist, secular, democratic and a republic.
- It expresses commitments to justice, liberty, equality and fraternity.
- These ideals support fair access to care and respectful treatment of people from different backgrounds.

### Important Features

#### 1. Constitutional Supremacy

- Government institutions derive their authority from the Constitution and must act within its limits.
- A policy or order cannot override a constitutional protection merely because it is convenient.

#### 2. Parliamentary Democracy

- Elected representatives make laws and hold the executive accountable through the parliamentary system.
- The executive administers laws, while courts interpret and apply them in disputes.

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## 3. Federal Distribution of Powers

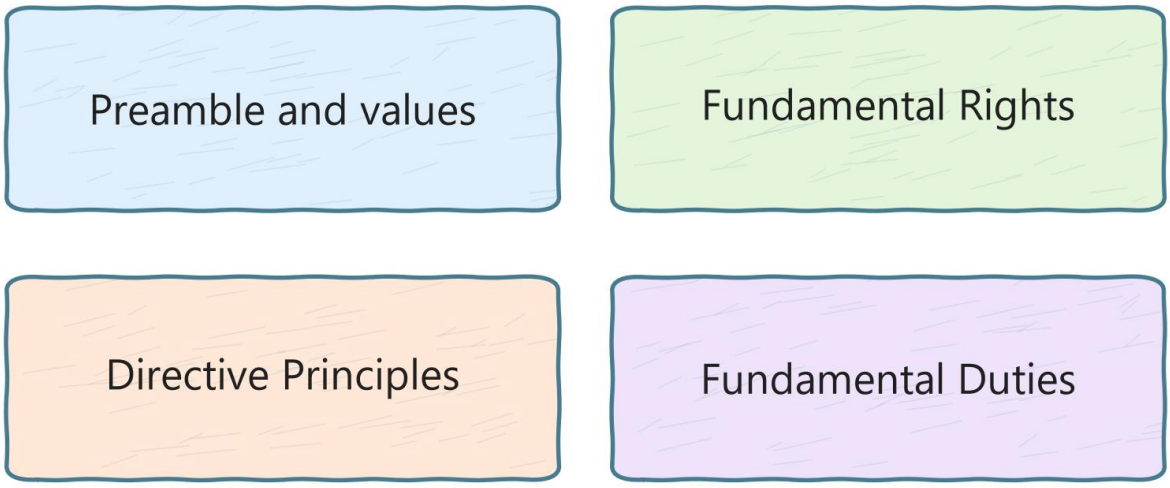
- Legislative subjects are distributed between the Union and states through constitutional provisions and the Seventh Schedule.
- Health-related matters may involve national and state responsibilities, so a nurse may need to follow both levels of law.

## 4. Independent Judiciary

- Courts protect legal rights and review the legality of government action within their jurisdiction.
- Judicial independence supports decisions based on law rather than pressure from the parties involved.

## 5. Rights, Principles and Duties

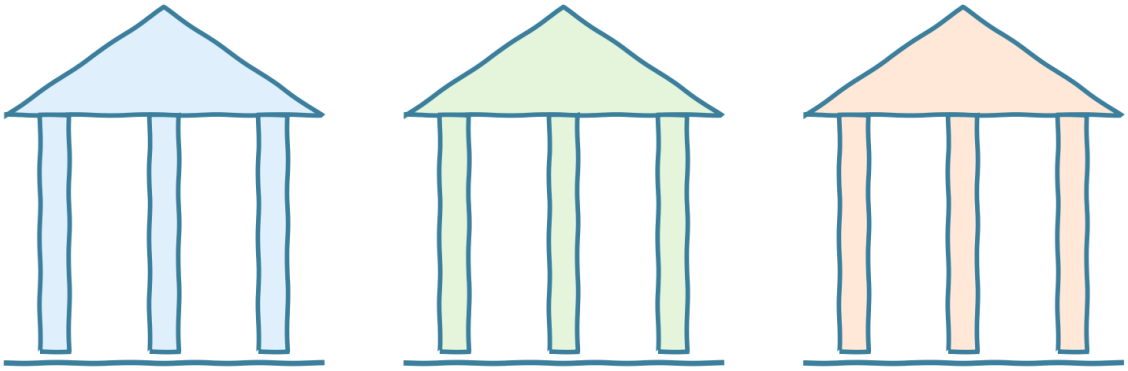
- Fundamental Rights provide enforceable constitutional protections.
- Directive Principles guide public policy, while Fundamental Duties describe civic responsibilities.
- These three parts have different legal roles and should not be treated as interchangeable lists.




*The Constitution provides a framework for governance*

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## Different institutions perform different roles



| Legislature | Executive | Judiciary |
|---|---|---|
| Makes laws | Implements laws and administers | Interprets law and decides disputes |

Powers and checks operate within the Constitution

***The legislature, executive and judiciary have different roles***

# Fundamental Rights

## Meaning

- **Fundamental Rights** are constitutional guarantees mainly contained in Part III, covering Articles **12–35**.
- Some rights protect all persons, while others are specifically available to citizens.
- Rights are subject to their constitutional conditions and lawful restrictions, rather than being unlimited in every situation.

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## Main Groups

### 1. Right to Equality

#### Meaning

- Articles **14–18** address equality before law, equal protection of laws and related safeguards against discrimination.
- They also address equality of opportunity in public employment, abolition of untouchability and restrictions on titles.

#### Relevance

- Healthcare decisions should be based on clinical need and lawful criteria rather than caste, religion, sex or social influence.
- Equality may require reasonable support for a person with disability so that access is meaningful.

### 2. Right to Freedom

#### Meaning

- Articles **19–22** include specified freedoms, protections concerning criminal conviction, life and personal liberty, education and safeguards regarding arrest.
- Article **19** protects specified freedoms of citizens, including expression, movement, association and occupation, subject to constitutional restrictions.
- Article **21** protects life and personal liberty through lawful and fair procedures.
- Article **21A** provides for free and compulsory education for children aged **6–14 years** in the manner determined by law.

#### Relevance

- Respect for dignity, privacy and bodily integrity influences consent and the handling of personal health information.
- Restrictions on a patient's liberty require a lawful basis and cannot be justified solely by convenience.

### 3. Right Against Exploitation

#### Meaning

- Articles **23–24** prohibit trafficking, forced labour and specified employment of children in hazardous work.
- These protections address situations in which power is used to exploit another person.

#### Relevance

- Unexplained injuries, restricted movement or a controlling accompanying person may raise concerns about trafficking or exploitation.

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- The nurse provides safe assessment and uses the appropriate protection and reporting pathway.

### 4. Right to Freedom of Religion

#### Meaning

- Articles **25–28** protect freedom of conscience and religion within constitutional limits.
- Religious freedom operates alongside public order, morality, health and other rights.

#### Relevance

- Ask about religious preferences and accommodate them when compatible with safe care and the person's own decisions.
- Do not impose beliefs or assume that a relative's preference is the patient's preference.

### 5. Cultural and Educational Rights

#### Meaning

- Articles **29–30** protect specified cultural and educational interests, including the rights of minorities to establish and administer educational institutions.
- They support the preservation of language, script and culture within the constitutional framework.

#### Relevance

- Language and cultural differences should not prevent a person from understanding treatment or obtaining appropriate care.
- A competent interpreter helps protect meaningful consent and accurate communication.

### 6. Right to Constitutional Remedies

#### Meaning

- Article **32** allows the Supreme Court to be approached for enforcement of Fundamental Rights.
- High Courts have writ powers under Article **226**, including protection of Fundamental Rights and other legal rights within their jurisdiction.

#### Relevance

- Courts can provide remedies when rights are unlawfully restricted or public authorities fail to meet legal duties.
- Nurses should preserve relevant records and refer a person seeking legal assistance to appropriate services.

## Property Rights

- The right to property is protected under Article **300A**, but it is no longer a Fundamental Right.

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