

Text Book for
INTERMEDIATE
Second Year

CIVICS



Telugu and Sanskrit Akademi
Andhra Pradesh

Intermediate

Second Year Text Book

Civics

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Y.S. JAGAN MOHAN REDDY



**CHIEF MINISTER
ANDHRA PRADESH**

AMARAVATI

MESSAGE

I congratulate Akademi for starting its activities with printing of textbooks from the academic year 2021 – 22.

Education is a real asset which cannot be stolen by anyone and it is the foundation on which children build their future. As the world has become a global village, children will have to compete with the world as they grow up. For this there is every need for good books and good education.

Our government has brought in many changes in the education system and more are to come. The government has been taking care to provide education to the poor and needy through various measures, like developing infrastructure, upgrading the skills of teachers, providing incentives to the children and parents to pursue education. Nutritious mid-day meal and converting Anganwadis into pre-primary schools with English as medium of instruction are the steps taken to initiate children into education from a young age. Besides introducing CBSE syllabus and Telugu as a compulsory subject, the government has taken up numerous innovative programmes.

The revival of the Akademi also took place during the tenure of our government as it was neglected after the State was bifurcated. The Akademi, which was started on August 6, 1968 in the undivided state of Andhra Pradesh, was printing text books, works of popular writers and books for competitive exams and personality development.

Our government has decided to make available all kinds of books required for students and employees through Akademi, with headquarters at Tirupati.

I extend my best wishes to the Akademi and hope it will regain its past glory.

(Y.S. Jagan Mohan Reddy)

Dr. Nandamuri Lakshmiparvathi

M.A., M.Phil., Ph.D.

Chairperson, (Cabinet Minister Rank)

Telugu and Sanskrit Akademi, A.P.



Message of Chairperson, Telugu and Sanskrit Akademi, A.P.

In accordance with the syllabus developed by the Board of Intermediate, State Council for Higher Education, SCERT etc., we design high quality Text books by recruiting efficient Professors, department heads and faculty members from various Universities and Colleges as writers and editors. We are taking steps to print the required number of these books in a timely manner and distribute through the Akademi's Regional Centers present across the Andhra Pradesh.

In addition to text books, we strive to keep monographs, dictionaries, dialect texts, question banks, contact texts, popular texts, essays, linguistics texts, school level dictionaries, glossaries, etc., updated and printed and made available to students from time to time.

For competitive examinations conducted by the Andhra Pradesh Public Service Commission and for Entrance examinations conducted by various Universities, the contents of the Akademi publications are taken as standard. So, I want all the students and Employees to make use of Akademi books of high standards for their golden future.

Congratulations and best wishes to all of you.

(Nandamuri Lakshmiparvathi)

Chairperson

Telugu and Sanskrit Akademi, A.P

J. SYAMALA RAO, I.A.S.,
Principal Secretary to Government



Higher Education Department
Government of Andhra Pradesh

MESSAGE

I Congratulate Telugu and Sanskrit Akademi for taking up the initiative of printing and distributing textbooks in both Telugu and English media within a short span of establishing Telugu and Sanskrit Akademi.

Number of students of Andhra Pradesh are competing of National Level for admissions into Medicine and Engineering courses. In order to help these students Telugu and Sanskrit Akademi consultation with NCERT redesigned their Textbooks to suit the requirement of National Level Examinations in a lucid language.

As the content in Telugu and Sanskrit Akademi books is highly informative and authentic, printed in multi-color on high quality paper and will be made available to the students in a time bound manner. I hope all the students in Andhra Pradesh will utilize the Akademi textbooks for better understanding of the subjects to compete of state and national levels.

(J. SYAMALARAO)

THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the [unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949 do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

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FOREWORD

The role played by the Akademi in stabilizing Telugu Medium at the level of Higher Education since its inception (1968) is well known. The Akademi has rendered needful services by publishing a number of Text Books, Reference Books, Translations, Popular Series, Monographs, Dictionaries, Glossaries, Readings, etc., over the years.

Many among the above mentioned books were also reprinted as per the demand. Sincere effort is being made to improve the quality of these books by conducting workshops, refresher courses and also by taking suggestions given by the intellectuals in general and the students and the teachers in particular.

Akademi has been revising and updating its publications in accordance with the prescribed syllabi, as and when necessary. Akademi is publishing Text Books for Intermediate in Telugu Medium since its inception. In addition, the Akademi has entered a new phase of activity with the publication of language books from the year 1995, and preparation and publication of Intermediate Text books in English medium from the year 1998, as entrusted by the Board of Intermediate education.

For the academic year 2014-15, the Board of Intermediate Education has revised the syllabus of all Humanities Text Books for first year of Intermediate and entrusted the preparation, printing and distribution of Text Books to Akademi. Accordingly, Akademi prepared this Text Book strictly in accordance with the prescribed syllabus for the academic year 2014-15.

We are indeed very much grateful to the Government of India, State Government, State Universities, the Board of Governors of Telugu and Sanskrit Akademi. We also thank the Commissioner, Intermediate Education and Secretary, Board of Intermediate Education of Andhra Pradesh. We are also very much grateful to Text Book Development Committee of the subject concerned for their valuable cooperation.

Constructive suggestions are solicited for the improvement of this book. The suggestions received will be examined and incorporated in the subsequent editions.

Sri. V Ramakrishna, I.R.S
Director
Telugu and Sanskrit Akademi
Andhra Pradesh

Preface

The formation of Andhra Pradesh and the conditions prevailing in the state since then necessitated the revision of Civics text book. This text book on “Indian Government and Polity” conforms to the revised syllabus prescribed by the Board of Intermediate Education, Government of Andhra Pradesh, Hyderabad with effect from the academic year 2015-2016 for the students of Intermediate Second Year Course. This book aims at acquainting the students with the various aspects of Indian Government and Polity.

There are thirteen chapters in this book. The First Chapter deals with the matters relating to the Indian Constitution. The Second Chapter discusses at length about the Fundamental Rights of Indian Citizens, Directive Principles of State Policy, Fundamental Duties. The Third, Fourth and Fifth Chapters throw light on the various aspects of Union Executive, Union Legislature and Union Judiciary in Indian Polity. The Sixth, Seventh and Eight Chapters relate to the matters of the State Government. The Ninth focusses its attention on the Union-State Relations. The Tenth Chapter highlights its attention on the Rural and Urban Local Governments in India in addition to the role of District Collector. The Eleventh Chapter relates to the Elections, Electoral Process, Representation and Electoral Reforms. The Twelfth Chapter discusses the Political Parties, National and Regional Political Parties in India. The Thirteenth Chapter traces the recent developments in A.P and India.

On the occasion of the bifurcation of Andhra Pradesh into Andhra Pradesh and Telangana States, the Chief Editor and the Authors are pleased to inform the students and teaching faculty that many efforts are made to incorporate the latest developments and matters on the topics in various chapters. It seems that some matters and issues are detailed in some chapters and limited in some other chapters. In our impression, this book will help the students to acquire relevant knowledge on the Union and State governments and administrative systems and enable them to attend the competitive examinations with confidence and success.

The team of editors and authors thank the teachers who rendered valuable suggestions during the preparation of the manuscript. They make humble appeal to the teaching faculty and beloved students to bring to their notice any errors and discrepancies so that they will be rectified in the future edition. Any suggestion for improving the quality of the book is appreciated with due regards

EDITOR

Preface of the Reviewed Edition

The text book on *Civics* for second year students of Intermediate, published around 2015, made a fairly good attempt to apprise the student, the basic and essential elements of political features of Indian Republic. Since then, there have been many changes in the polity and the dynamics of various structures at Union, state and local governments which need to be closely examined. This text provides an overview of the political institutions and elaborates the salient features of the Indian Constitution.

In the annexures, brief snippets have been provided for major political and constitutional events and the details provided in the form of Tables have been updated with the current functionaries of various political offices at the Central, State and other autonomous bodies.

The State of Andhra Pradesh also got a new identity and had to encounter numerous practical issues during the last eight years. The review has been extremely limited exercise and the student will get to know the factual information about major Office bearers and political luminaries. We hope that the student would be motivated and inspired to probe the developments further and be ready for further learning and contribute to progressive and enlightened India.

We thank the Director, Research Officer and other supporting staff of Telugu Akademi for taking initiative to print the book and helping us in all possible ways to do our best in a short time.

Review Team

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**BOARD OF INTERMEDIATE EDUCATION :: HYDERABAD GOVERNMENT
OF ANDHRA PRADESH**

Second Year

CIVICS - Paper - II

(Indian Government and Polity)

Syllabus (w.e.f. 2015-16)

Chapter - 1 : The Constitution of India (10 Periods)

- a. The Constitution
- b. The Constitution of India – Its Historical Background
- c. Salient Features of Indian Constitution

Chapter - 2 : Fundamental Rights and Directive Principles of State Policy (12 Periods)

- a. Fundamental Rights
- b. Directive Principles of State Policy
- c. Fundamental Duties

Chapter - 3 : Union Executive (12 Periods)

- a. The President of India
- b. The Vice-President of India
- c. The Prime Minister and Council of Ministers

Chapter - 4 : Union Legislature (10 Periods)

- a. Lok Sabha – Composition, Powers and Functions –
Speaker of Lok Sabha
- b. Rajya Sabha – Composition, Powers and Functions –
Chairman of Rajya Sabha
- c. Parliamentary Committees – Constitution Amendment Procedure

Chapter - 5 : Union Judiciary (10 Periods)

- a. Supreme Court – Composition, Powers and Functions
- b. Judicial Review – Judicial Activism – Public Interest Litigation
- c. Independence of Judiciary – Attorney General of India

Chapter - 6 : State Executive (10 Periods)

- a. The Governor – Powers and Functions
- b. The Chief Minister – Powers and Functions
- c. The State Council of Ministers – Powers and Functions

Chapter - 7 : State Legislature (10 Periods)

- a. Legislative Assembly - Composition, Powers and Functions –
Speaker and Deputy Speaker
- b. Legislative Council – Composition,
Powers and Functions – Chairman and Deputy Chairman
- c. Legislative Committees – Public Accounts Committee,
Estimates Committee

Chapter - 8 : State Judiciary (09 Periods)

- a. High Court – Composition, Powers and Functions
- b. District Courts – Composition, Powers and Functions
- c. The State Advocate General

Chapter – 9 : Union-State Relations (09 Periods)

- a. Legislative, Administrative and Financial Relations
- b. Finance Commission and Planning Commission
- c. Other Commissions and Councils

Chapter – 10 : Local Governments in India (12 Periods)

- a. Rural Local Bodies – Panchayat Raj Institutions - The Constitution (Seventy Third Amendment) Act
- b. Urban Local Bodies – Nagar Panchayats, Municipalities and Municipal Corporations – The Constitution (Seventy Fourth Amendment) Act
- c. District Collector – Powers and Functions

Chapter – 11 : Elections and Representation (10 Periods)

- a. Elections – Electoral System in India
- b. Election Commission of India
- c. Representation – Electoral Reforms

Chapter – 12 : Political Parties (10 Periods)

- a. Political Parties – Party System – Types of Political Parties
- b. Major National Political Parties in India
- c. Major Regional Political Parties in India

Chapter – 13 : Recent Developments in Andhra Pradesh and India (10 Periods)

- a. Re-Organization of States with special reference to Andhra Pradesh
- b. Human Rights Commissions in India
- c. Right to Information Act -2005

CHAPTER 1



The Constitution of India

- 1.0 The Constitution
- 1.1 Elements of a Constitution
- 1.2 Indian Constitution – Its Historical Background
- 1.3 Making of the Constitution
- 1.4 Sources of the Constitution
- 1.5 Preamble of the Constitution
- 1.6 Salient features of Indian Constitution
- Summary
- Questions



1.0 The Constitution

In the First chapter we shall discuss different aspects pertaining to the Constitution like what is Constitution, how does it function, the historical background of the Indian Constitution making of the Constitution, sources of Indian Constitution, preamble of the Constitution and salient features of the Constitution. In the subsequent chapters you will know that the various aspects of the functioning of Constitution.

Before you start reading about the structure of the Government at the national, state, and local levels, their inter relationship, it is necessary that you understand, what is a Constitution? Why do we need it? How does it function? What are the factors that influenced the framing of the Constitution? What is its philosophy?

After studying this chapter, you will be able to know to get to know the fact that, why all modern societies are governed by the Constitutions. What is a Constitution? How the Constitution establishes the relationship between the government and the governed? How was the Indian Constitution framed? And so on.

The celebrated Greek Political Scientist, *Aristotle*, observed that ‘man is a social animal’. He further added that ‘Man is a political animal too’. Since, time immemorial, human beings are leading social life. It leads to inter-personal and inter-group relationships among them and it resulted in the evolution of society. As a member of the society, human being is governed by a set of mutually agreed upon rules and regulations. In the absence of a consensus among the people about the need to observe some basic principles, life becomes insecure and unpleasant. So, in the common interest of the society, a set of norms are to be worked and enforced authoritatively. That set of rules which ensure peace and well being of the society constitute a Constitution.

The political institution that governs the society is called State. India, Pakistan, Bangladesh, Sri Lanka, China, The United States of America (USA), Japan, Russia, The United Kingdom (UK), France, Germany, etc., are some examples of modern states. All the states provide for themselves a blue print to manage the things. The Constitution determines the general structure of the State which forms the skeleton. Now, we can define the Constitution as ‘A supreme document that regulates the relationship between the governed (people) and the Government’. The Constitution may be a written instrument enacted at a given time by a sovereign power as in case of India; or a combination of customs, traditions, judicial decision and legislative acts as in case of the United Kingdom. The Indian Constitution is said to be written, while the Constitution of the UK is considered to be unwritten. Of course, no Constitution is completely written or unwritten and all are a combination of both.

1.1 Elements of the Constitution

The Constitution has the following functions

1. The Constitution prescribes a set of basic rules that ensure coordination amongst the members and groups of a society. The Constitution specifies the basic allocation of power in a society. It decides who frames the laws. For example, in a democratic country, like, India, the people through their elected representatives make the laws. On the other hand, in People’s Republic of China, the Communist Party wields the power, and it actually makes the laws. In a Monarchy, like, Saudi Arabia, the King decides the nature of law. On the whole in India, the Constitution enjoins the Parliament/state legislature to enact laws.
2. It specifies the structure of the Government and its limitations of the modern governments are made up of three organs, viz., legislature, executive and judiciary. While the legislature frames the laws within the limits set by the Constitution, the executive- The President or Governor, the Council of Ministers headed by the Prime minister or Chief Minister, would be taking policy decisions as per the guide lines provided by the Parliament or legislature. In other words, the Constitution sets in motion the actions to be pursued in

public interest. It spells out the relations among the three organs of the Government. The judiciary, by interpreting the law would set limits to the powers of the Parliament and the Council of Ministers. It is through the judiciary, the Constitution ensures limited and responsible government. For example Article 13 of the Indian Constitution establishes the supremacy of the Constitution.

3. The Constitution, as mentioned in the beginning, establishes the relationship between the ruled and the rulers. Fundamental Rights and Fundamental Duties spell out in detail the mutual obligations of the citizens and the state. Part III and Part IVA of the Indian Constitution bind the state and the citizens towards each other.
4. Every society has certain aspirations and goals. The State came into existence to fulfill the bare needs of the people and continues to exist for the good life of all. It is the Constitution which obliges the state (through The Government) to look after the well being of its members. Part IV of our Constitution gives certain directions to The Government of the day.
5. The Constitution, as the supreme document, serves as a shock absorber in limiting the fluctuations of present and future generations. It is dynamic enough to accept the demands of change the same time it is strong enough to withstand any vagaries. It is a living document that connects the past with the present and assures a predictable future. Modern societies cannot survive without a just Constitution. Look at what is going on in our neighboring country, Nepal. For the past several years major political parties couldn't agree upon an accepted Constitution and literally there is no security for life and property. That is the price you pay when there is no Constitution.

1.2 The Indian Constitution -Its Historical Background

The Constitution can trace its origin to history of India under British rule. The East India Company incorporated in England in 1600 confined to commercial activities till the middle of the 18th century. The disintegration of Mughal Empire, the rise of innumerable native rulers and their rivalry among themselves, provided an opportunity to East India Company to emerge as a political power. But the mismanagement of company's commercial activities prompted the British Parliament to pass series of acts- Regulating Act 1773, Pitt's India Act 1784, 1793, 1813, 1833 and 1853 Charter Acts. The net result was the emergence of highly centralized British Administration in India.

The first war of Independence or 'Sepoy Mutiny' of 1857 resulted in the termination of East India Company's rule and the crown took over the reins of Indian administration with the passage of Government of India Act of 1858. The post 1858 administration of British India moved towards decentralization through a series of acts, viz., The Indian Councils Acts of 1861, 1892 and 1909. These acts laid the foundation for a Parliamentary form of government.

The outbreak of First World War necessitated the crown to seek the assistance of India, in terms of men and material. Emerging successful in its war efforts, the British government expressed its appreciation to the people of India by gradual development of self governing institutions. The Government of India Act of 1919 provided for the division of authority between the centre and the provincial governments and the introduction of 'Dyarchy' in the provinces. Dyarchy facilitated the division of executive powers between the Indian representatives and the British advisors of the governor.

The provisions of 1919 Act were implemented in letter but not in spirit. The emergence of a new spirit, zeal and unity of the educated Indians under the leadership of Indian National Congress demanded complete transfer of power to India. The non-violent, non cooperative movement started by Gandhiji gathered momentum. The Simon Commission appointed by British Government in 1927 was opposed to an all Indian federation. But the Nehru Committee (1928) of Indian National Congress was for a federation. The Three Round Table Conferences held in London in 1930, 1931 and 1932 and their recommendations led to the passage of Government of India Act, 1935.

The Act provided for the introduction of federal polity and the establishment of provincial autonomy in the British India provinces. But the provisions relating to Indian federation did not come into force; only the provincial autonomy did materialize. Unfortunately, the outbreak of World War II led to the resignation of Congress Party led ministries in seven provinces. It was a protest against the involvement of India in World War-II without consulting its people. Britain, badly in need of India's support, sent a senior cabinet minister Sir Stafford Cripps to negotiate with the Indian leaders. The Cripps Mission (1942) was a failure. In this backdrop, Indian National Congress under Gandhiji's leadership adopted the famous 'Quit India' resolution for the immediate ending of British rule in India.

The Second World War ended in favour of Allied powers. The Labour Party came to power in Britain's Parliamentary elections. Prime Minister Atlee sent three members of his cabinet to have a dialogue with the important leaders of India to decide the political future of India. While the All India Muslim League demanded the partition of the country on religious basis, the Indian National Congress was opposed to the partition of the country. The Cabinet Mission proposed a Confederation consisting of three groups of autonomous states. It was rejected by the All India Muslim League and it threatened direct action to achieve its goal. Lord Wavell formed an interim government with Jawaharlal Nehru as its head (1946). With the increasing communal violence it seems there is no alternative to partition of the subcontinent. The Mountbatten Plan (1947) provided for the partition of the country. The Indian Independence Act of 1947 provided for setting up of a dominion of India and a dominion of Pakistan. The

native states were given the choice of joining and becoming an integral part of either of the two dominions. The vision and constructive statesmanship of Sardar Vallabhai Patel the deputy Prime Minister and Home Minister facilitated the peaceful merger of most of the native states into the Indian Union. Of course, the merger of Jammu & Kashmir, Junagadh and Hyderabad states into the Indian Union proved to be a difficult task.

1.3 The Making of Indian Constitution

While negotiations were going on about the modalities of transfer of power, a Constituent Assembly was setup to draw the Constitution for India. The Cabinet Mission and the major political parties reached an agreement over the Constitution of Constituent Assembly in 1946. The election to Constituent Assembly is to be indirect and they were to be elected by the elected legislative assemblies of the provinces. 292 seats were allotted to British India Provinces and 93 to Native States. Thus, the total strength of Constituent Assembly is to be 385.

The first meeting was held on December 9, 1946. It was boycotted by the All India Muslim League members. It took two years, eleven months and seventeen days for the Constituent Assembly to finalize the Constitution. The members of Constituent Assembly were not selected purely on a party basis, but were drawn from all walks of life and represented almost every section of the Indian people. The moving spirit of Constituent Assembly, were: Jawaharlal Nehru, Dr. Rajendra Prasad, the Chairperson of Constituent Assembly and Sardar Vallabhai Patel. These three people contributed significantly in the formulation of basic principles of the Constitution. But it was the Drafting Committee headed by Dr.B.R. Ambedkar that provided the flesh to it. Dr.B.R. Ambedkar was assisted by eminent jurists, like, Alladi Krishna Swamy Ayyar, N. Gopalaswamy Ayyangar, K.M. Munshi and T.T.Krishnamachari. The brick and mortar of the structure was provided by the reports of the Union Powers Committee, the Union Constitution Committee, and the Advisory Committee on Minorities and Fundamental Rights. In the final form, the Constitution was passed and adopted by the Constituent Assembly on November 26, 1949. The members affixed their signatures on the original copy on January 24, 1950. The Constitution was inaugurated on January 26, 1950. It was the twentieth anniversary of the day on which the Indian National Congress adopted the resolution of ‘Purna Swaraj’ (complete Independence). It has ever since become the ‘Republic Day’ of India.

The draft Constitution had 315 articles and 13 schedules. But the final form has 395 articles and 8 schedules. This shows that the original draft had undergone considerable changes. Discussion was encouraged to the maximum. It was a full pledged democratic exercise.

1.4 Sources of Indian Constitution

As a polity, India is relatively young. As an Independent India, it is hardly 67 years old. The founding fathers of the Constitution while drafting it, generously borrowed ideas from the contemporary politics. It is the result of considerable adaption rather than the originality.

The major external source was the British Constitution. The Indian subcontinent was subjected to the influence of the United Kingdom for nearly three centuries. The people of India were more or less used to British practices. The Parliamentary form of government, the ideal of rule of law, the law making procedure, cabinet government and single citizenship can be traced to the United Kingdom. The Republican form of government, Fundamental Rights and independent judiciary can be traced to the United States of America. The Directive Principles of State Policy, contained in part IV of the Constitution, are borrowed from the Constitution of Irish Free State. The concepts of liberty, equality, and fraternity as are found in the Preamble of the Constitution were inspired by French Constitution. The quasi-federal form of government and the idea of residual powers were taken from the Canadian Constitution and the emergency powers are to be traced to the Weimar Constitution of Germany. Most importantly, the Indian Constitution owes a great deal to The Government of India Act of 1935. A strong central government with relatively weak state governments, the division of powers into three lists, integrated judiciary, protection of minorities etc., is some of the features borrowed from the 1935 Government of India Act.

1.5 Preamble of Indian Constitution

Preamble is described as the identity card of the Indian Constitution. It reflects the philosophy embedded in Indian Constitution. It reveals the aims, aspirations and objectives of the people of India. Justice Hidayatullah has aptly observed that it is “The Soul of the Constitution”. It is a key to open the minds of the makers of the Constitution. Pandit Jawaharlal Nehru moved the ‘Objectives Resolution’ in the first session of the Constituent Assembly and it was adopted unanimously. The objectives resolution is the preamble. The 42nd Amendment, to the Constitution has added the terms “Socialistic” and “Secular” to the Preamble.

The Preamble, as it stands today, reflect the Fundamental constitutional values. They are expected to guide all Indians from generation to generation. It spells out the nature of the State that the people of India wanted to create a Sovereign, Socialistic, Secular, Democratic and Republican State. Through such a state we wanted to provide to all citizens - Justice, Liberty, Equality, Fraternity and the Unity and Integrity of the nation. The Ideal State, we wanted to give to ourselves is to be ‘Sovereign’ which means its authority within the country is undisputed and externally it is free from outside control. It also implies that sovereignty

(supreme) vests with the people who have given to themselves this Constitution. ‘Socialist’ incorporated under 42nd Amendment to the Constitution, means a State that doesn’t allow any kind of exploitation - social, economic and political. ‘Secular’, again introduced through 42nd Amendment Act, 1976 of the Constitution emphasizes equality of rights to all citizens irrespective of their religious affiliation. In the opinion of Justice *Gajendra Gadkar*, “it gives equal freedom to all religions”. ‘Democratic’ nature of the state stipulates that the sovereign power resides with the people. They exercise it periodically through universal adult franchise. A ‘Republican’ State assures that public offices are open to every citizen without any discrimination. It negates the hereditary principle.

Such an ideal state would strive to secure to all its citizens – Justice, Social, Economic and Political. ‘Justice’ implies fairness in social, economic and political fields; all citizens would be treated fairly. Unfortunately, it still remains an ideal rather than a reality. Liberty of thought, expression, belief, faith and worship etc., incorporates various freedoms guaranteed in the Fundamental Rights of the Constitution. Articles 19, 25 to 28 spell these freedoms in details. But this liberty cannot degenerate into a license. It should be regulated so as not to endanger the security of the State and public interest.

‘Equality’ means absence of discrimination. It has legal, social, political and economic aspects. In the preamble it refers to ‘equality of status and opportunity’. Accordingly, all citizens are equal before law and enjoy equal protection of the laws of the land. There can be no discrimination on the basis of religion, race, caste, sex, place of birth in matters of access of public places and public employment. ‘Fraternity’ assures the dignity of the individual and the unity and integrity of the nation. ‘Fraternity’ means a common feeling of brotherhood. In a diversified society, like India, the feeling of oneness is most important to preserve the unity and integrity of the nation. Dignity of the individual can be protected by abolishing the practice of untouchability (Article 17) and further, by providing to all its citizens adequate means of livelihood, just and humane conditions and a decent standard of life.

1.6 Salient Features of Indian Constitution

All human beings look alike but every individual is unique. In the same way, all the countries have Constitutions and one may find many similarities amongst them; still each one is unique. A country’s Constitution is influenced by historical, political, economical, geographical, ethnic, cultural and the prevalent regional and international atmosphere. The Indian Constitution is unique in its content and spirit. Though borrowed from almost every Constitution of the world, the Constitution of India has several salient features that distinguish it from the Constitutions of other countries. The following are the salient features of the Indian Constitution.

1.6.1 A Lengthy Written Document

In 1950, the Indian Constitution had 395 Articles and 8 Schedules. at present it contains 12 Schedules. It runs nearly into 300 pages. On the other hand, the USA Constitution with just seven Articles barely runs into three pages. But we need to remember one thing. In the USA, all the states have their separate Constitutions. In India, except for the state of Jammu & Kashmir state, there are no separate Constitutions for the states. Moreover, given the diversity of Indian society, the founding fathers wanted to incorporate the necessary safeguards to Minorities, SC's, ST's, etc., In view of the various issues encountered by other countries on enforcing the provisions, our founding fathers drafted the constitutional provisions in detail.

1.6.2 A combination of rigidity and flexibility

Constitutions are living documents. They should be dynamic enough to undergo changes when it is necessary and at the same time rigid enough to prevent from tinkering by the shifting ruling majorities. Too much of rigidity may negate the very purpose of the Constitution. Our founding fathers were pragmatic enough to provide for rigidity and flexibility as the situation demands. Article 368 provides the details of the amendment procedure.

- (i) Some of the provisions, like, admission of new states (eg: Telangana), provisions relating to citizenship, salaries and allowances of the members of Constitutional bodies, Viz., President, Vice-President, Supreme Court and High Court Judges, etc.,
- (ii) Amendment by two-thirds majority and with the concurrence of half of the states-election of the President, executive powers of the union, states, provisions relating to three lists (Centre, State and Concurrent lists) etc.
- (iii) Other provisions can be amended by a special majority vote in Parliament; ratification by the states is not required, such as amendment to Fundamental Rights, Directive Principles of State Policy, etc.,

1.6.3 Quasi-federal Polity

Given the diversity, uneven development and a constant threat to national integration, the founding fathers of Indian Constitution preferred a strong central government with relatively weak state governments. K.C.Wheare, a well known authority on federalism preferred to call this arrangement as 'quasi federal'. The USA is an example for an ideal federal polity where both national as well as regional governments are independent in their own spheres and they coordinate with each other. We preferred a Canadian model with strong unitary and subsidiary federal features.

1.6.4 Republican Government

Unlike, the colonial master, the UK, India preferred a republican government. Here public offices are open to all eligible citizens and there is no place for hereditary principle. After all, monarchy is antidemocratic.

1.6.5 Parliamentary Government

Indians were familiar with the Parliamentary Government that was started during the colonial era. The Indian Councils Act of 1909 and the Government of India Acts of 1919 and 1935 laid strong foundation for it. Naturally, we preferred the continuation of the same type of government. There is another strong reason for preferring Parliamentary form of government rather than Presidential form of government. In a diversified society like India, it is better to go for Parliamentary form of government which facilitates dispersal of authority among several ministers rather the concentration of authority in a single person like what is practiced in the Presidential form of government. In USA, the principle of judicial supremacy has been accepted. Thus, Indian Parliamentary System combines best features of both American and British Systems.

1.6.6 Fundamental Rights and Fundamental Duties

Part III of the Constitution, Articles 12 to 35, provides for a set of basic human rights to all. They are justiciable and ensure basic freedoms. Fundamental Rights put limitations in the Government and prevent misuse of authority. The 42nd Amendment to the Constitution incorporated the Fundamental Duties in Article 51A under Part-IVA. Though they are not justiciable, yet they put an obligation on the citizens to render certain duties in return for the protection they have been enjoying through Fundamental Rights.

1.6.7 Single Citizenship

Though the Indian Constitution is federal and envisages a dual polity, it provides for only a single citizenship to all those persons who are born in India or who resided in India for a specific period, i.e., citizen of India. In countries like USA, each person is not only a citizen of USA but also a citizen of the particular state to which he belongs. But in India, all citizens irrespective of the state in which they are born, enjoy rights all over the country. No discrimination is made between the citizens excepting in few cases like tribal areas, Jammu and Kashmir etc.

1.6.8 Universal Adult Franchise

The Indian Constitution adopted universal adult franchise on the basis of elections to the central and state legislative assemblies. Every citizen who have completed 18 years of age will enjoy right to vote without any discrimination of caste, race, religion, gender, literacy, wealth and so on. Universal Adult Franchise makes democracy broad based. It enhances the

self respect and prestige of the common people. It upholds the principle of equality and enables minorities to protect their interest and it creates new hopes among weaker sections of the society.

1.6.9 Secular State

Our Constitution stands for a Secular State. It does not uphold any particular religion as the official religion of the Indian State. Meanwhile, the constitution has abolished the old system of communal representation i.e., reservation of seats in the legislatures on the basis of religion. However, it provides for the temporary reservation of seats for Scheduled Castes and Scheduled Tribes to ensure adequate representation to them.

1.6.10 Independent Judiciary

Federal Polity requires an independent judiciary to interpret the constitution and to prevent the encroachment on the part of legislature and executive. Over a period of time, the Supreme Court of India emerged as the most powerful judiciary in the world. It is due to the independent position that the Judges of Supreme Court and High Courts decide the propriety and constitutional validity of the acts and policies of the legislative and executive authorities in the country.

1.6.11 Directive Principles of State Policy

Our Constitution hinted out certain Directive Principles as the policy of the State in Part IV from Articles from 36 to 51. Our Constitution makers borrowed these principles from Irish Constitution. These principles reflect the welfare state concept. They are the directions to be followed by the various governments. Equal pay for equal work, provision of employment opportunities, fair distribution of wealth, old age pension, protection of ill health, provision of leisure for workers, conservation of wildlife, prohibition of arrack, protection of women and children and old age people etc are some examples of these principles. Though these principles are non-justiciable, no responsible government can afford to ignore them.

1.6.12 Bicameralism

The constitution of India introduced bicameralism at the national level. Accordingly, the Indian Parliament consists of two Houses namely, Lok Sabha (Lower House) and Rajya Sabha (Upper House). While the Lok Sabha represents the people, the Rajya Sabha represents the interests of the states. The makers of Indian Constitution adopted the British and American type of Bicameralism in this regard.

1.6.13 Panchayati Raj and Nagar Palikas Acts

Originally the Indian Constitution, like any other federal Constitutions provided for a dual polity and contained provisions with regard to the organization and powers of the centre and states. Later the 73rd and 74th Constitutional Amendment Acts gave constitutional recognition to the Panchayats and the Nagar Palikas (i.e., urban and rural local governments) have added which has not found in any other Constitutions in the world.

Summary

People who belong to a territory organise themselves into a State. All the states need a particular set of laws, depending on the nation psyche to manage things. These laws form the constitution of a state. Thus, the Constitution is a supreme document which can be either written or unwritten that regulates the relationship between the people and the government. The Constitution apart from establishing the relationship between the people and the government also discusses the structure of gove and its limitations. The goals and aspirations of the society that the Constitution represents and also reflects its aspirations and goals and same is true of the Indian Constitution.

After the Government of India Act of 1858, the administration of colonial India was taken over by the British government and a series of Acts like the Indian Council Acts of 1892, 1882 and 1909 and the Government of India Act of 1919 and 1935 laid a strong foundation for a parliamentary type of government in India. And after India attained independence in 1947 there was need to draw a Constitution for the country. The Constitution of India was passed and adopted by the Constituent Assembly on November 26, 1949 and was inagurated on January 26, 1950.

The Constitution at its inception had 365 Articles and 8 Schedules. Apart from the British Constitution, the Indian Constitution generously borrowed ideas from the constitution of other countries like U.S.A, Ireland, Canada, Germany and South Africa etc. The constitution has a preamble which reflects the aims and aspirations of the people of India and it has features which are unique to the Indian Constitution. Hence this chapter presents a brief picture and an outline of various issues pertaining to the Indian Constitution which enable the student, being the future citizen of India not only to aquire knowledge but also appreciate the importance and greatness of Indian Constitution.

QUESTIONS**I. Long Answer Questions**

1. What is constitution? Explain the historical background of the Indian Constitution.
2. Explain in brief the salient features of Indian Constitution.

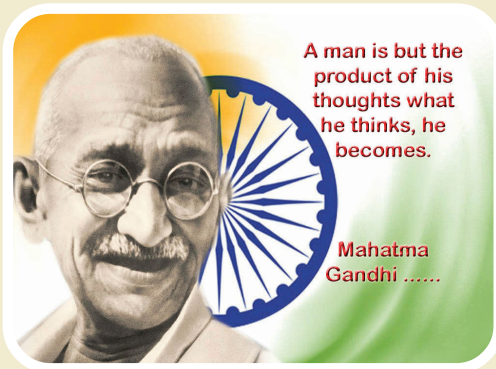
II. Short Answer Questions

1. Write briefly the elements of the Constitution.
2. Write about the making of Indian Constitution
3. Write a note on the sources of Indian Constitution.
4. Explain any three salient features of Indian Constitution.
5. “The Preamble is the soul of the constitution”. Explain.

III. Very Short Answer Questions

1. Written Constitution.
2. Rigid Constitution.
3. Parliamentary form of Government.
4. Fundamental Rights and Duties.
5. Secular state.
6. Universal Adult Franchise.
7. Bicameralism.
8. Directive Principles of State Policy.
9. Independence of Judiciary.
10. Preamble.

CHAPTER 2



Fundamental Rights and Directive Principles of State Policy

2.0 Introduction

2.1 Fundamental Rights

2.2 Directive Principles of State Policy

2.3 Fundamental Duties

Summary

Questions

2.0 Introduction

Fundamental Rights are incorporated in Part-III from Articles 12 to 35 Indian Constitution. In this context the makers of Indian Constitution derived inspiration from the Constitution of USA. Part-III of the Indian Constitution is rightly described as the 'Magna Carta of India'. It contains a very long and comprehensive list of justiciable Fundamental Rights. Fundamental Rights in fact are more elaborate than those found in the constitution of any other country in the world.

2.1 Fundamental Rights

Fundamental Rights are an important feature of Indian Constitution. They are meant for Indian citizens realising the ideal of political democracy. These rights are assigned to the Indian Citizens. They enable the citizens to realise their personality.

Fundamental Rights will act as a means for leading a happy and honorable life by the citizens. They render strength and succor to the citizens. They serve as the main source for realising the ideals of political democracy in India.

2.1.1 Evolution of Fundamental Rights

The makers of Indian Constitution have incorporated Fundamental Rights in Articles 12-35 in Part III of the constitution. They were inspired by the 'Bill of Rights' mentioned in American Constitution while including them in our Constitution. Fundamental Rights enable the Indian citizens to develop their personality to the fullest extent possible. They provide strength and succor to independent India. They form the basis of our political system. Eminent leaders like Dadabhai Nauroji during the Indian National Movement demanded the British Government for the provisions of various freedoms to India. It is in this context that they suggested for the provision of some Fundamental Rights for Indians. Their demands for Fundamental Rights have been intensified after the establishment of Indian National Congress in 1885. Lala Lajapath Roy, Bala Gangadhar Tilak and Bipinchandra Pal, the renowned extremists of Indian National Congress, enunciated that 'Swaraj' is the birth right of Indians and Britain must voluntarily leave India. The Motilal Nehru Committee Report (1928) reiterated this for the psychological progress of Indians. The Karachi Session of Indian National Congress (1931) prepared a report comprising the rights and duties required for Indians. The Sapru Committee (1945) hinted out the inclusion of a list of Fundamental Rights in the future Indian Constitution.

The Sub-Committee on Fundamental Rights under Rajendra Prasad was set up by the Constituent Assembly during the freedom struggle. It criticized the British Government's negligence in not providing Fundamental Rights to Indians. On the whole, this Sub-Committee suggested for the inclusion of seven Fundamental Rights of Indian citizens in our Constitution. The Constituent Assembly approved this suggestion and conferred seven Fundamental Rights for Indian citizens.

2.1.2 Characteristic Features of Fundamental Rights

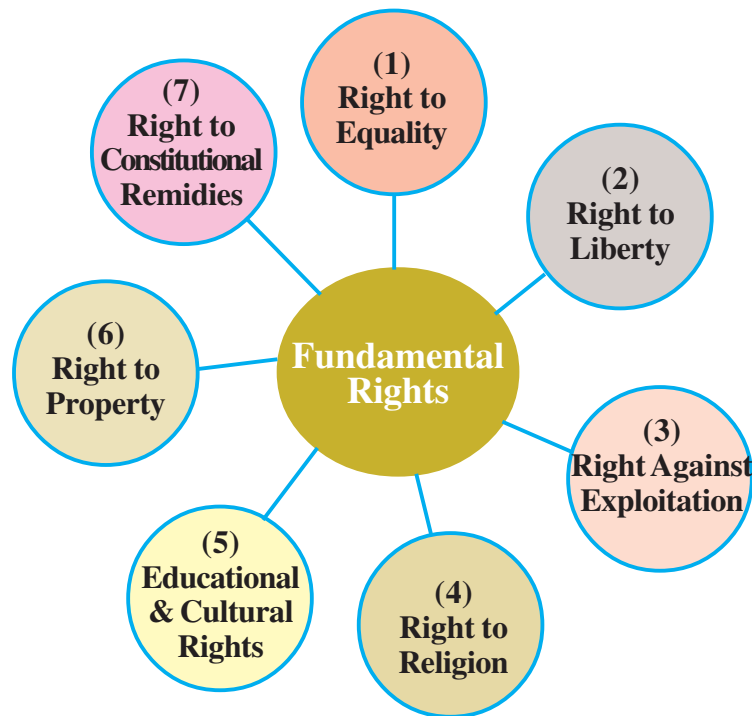
Fundamental Rights have the following characteristic features:

1. Some of the Fundamental Rights are granted to the 'citizens' alone. For example, equality of opportunity in matters of public employment, protection against discrimination on any ground; freedom of speech, assembly, association etc and cultural and educational rights of the minorities. On the other hand, some of the Fundamental Rights are available to any person living in the country whether Indian or foreign. For example, equality before law and its equal protection, protection of life, freedom of religion etc.

2. Some of the Fundamental Rights are positive in nature. They provide scope for the citizens to enjoy some types of freedom. On the other hand, some of the Fundamental Rights are negative in nature. They impose some restrictions upon the activities of the State.
3. Fundamental Rights are not absolute. In this sense the State can impose reasonable restrictions on their utilisation and enjoyment in the interest of public order, morality and friendly relations with foreign states.
4. State may impose some restrictions on all or some of the Fundamental Rights of the citizens during the emergency. The President of India can suspend all the Fundamental Rights except Article 21 (Right to Life) during the national emergency. However, the freedoms guaranteed can't be restricted by any body.
5. Fundamental Rights are a component of the Indian Constitution. So they can't be altered through ordinary laws.
6. Fundamental Rights are comprehensive, integrative and detailed in nature. Some restraints have also been imposed against the utilization of these rights under specific conditions.
7. Fundamental Rights are protected by the judicial organizations in the country. Especially the Supreme Court and State High Courts play a crucial role in this regard. They ensure justice to those whose rights are infringed or confiscated by others including the State authorities. They issue several writs for the protection of Fundamental Rights.
8. Fundamental Rights serve as the main means for proper utilization of the capacities and intelligence hidden among the Indian citizens.
9. Though the Constitution guarantees six categories of Fundamental Rights, all are not of equal weight. That is, there can be discovered a hierarchy of values. It becomes evident when Justice M. Hidayatullah in the Golaknath Case ruled that right to property is the 'weakest of all rights'

2.1.3 Analysis of Fundamental Rights

In the beginning Indian citizens are provided with seven Fundamental Rights. These rights are mentioned in Articles 12 to 35 in part III of our constitution. These rights are analysed as follows.



1. Right to Equality (Articles 14 – 18)
2. Right to Freedom (Articles 19 – 22)
3. Right Against Exploitation (Articles 23 - 24)
4. Right to Freedom of Religion (Articles 25 – 28)
5. Educational and Cultural Rights (Articles 29 – 30)
6. Right to Property (Article 31)
7. Right to Constitutional Remedies (Article 32)

Of the above, the Right to Property was abolished from the list of Fundamental Rights by the (Forty Fourth) Constitutional Amendment Act in 1978. It is made a legal right under Article 300A. On the whole, at present, there are only six Fundamental Rights. The above fundamental rights may be analysed in the following pages:

1. Right to Equality

According to Article 14, the State shall not deny any person equality before law or equal protection of laws within the territory of India. The word ‘equality before law’ was taken from the Constitution of UK and the word ‘equal protection of laws’ was incorporated from Constitution of the USA. ‘Equality before law’ means that all persons shall be subject to

the identical laws, courts and procedures. The term ‘equal protection of law’ means equal treatment of all persons in similar circumstances.

Article 15 prohibited discrimination between individuals on the basis of religion, race, caste, gender or place of birth. It provided for equal access to public places like shops, hotels, places of entertainment, wells, bathing ghats and places of worship. It also prohibits any discrimination in public employment on any of the above mentioned basis. However, this Article will not be an obstacle against the State for taking steps for protecting the interests and well being of women and children.

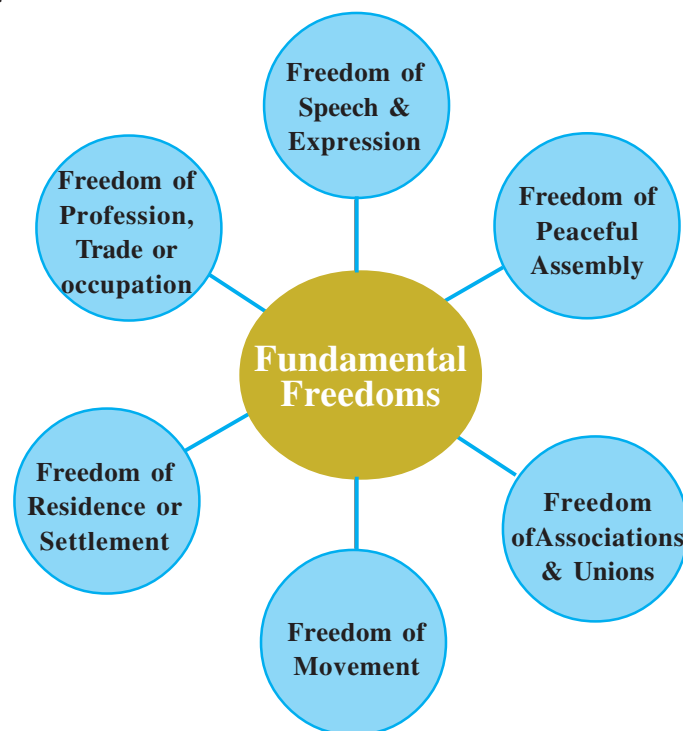
Article 16 guarantees equality of opportunity in matters of public employment. It is further provided that in respect of public employment, the State can make no discrimination on grounds of religion, race, and caste, and gender, place of birth or residence. However, this Article will not be an obstacle to the State for prescribing certain conditions to the citizens in matters of employment in local, State, Union and Union Territories. The State may allow reservations to the backward classes if it feels that the backward classes are not provided with sufficient reservations. The (Eighty First) Constitution Amendment Act 2000 specified that filling up of the offices in reserved category, if not completed in a specified year, the same will be done even after exceeding 50% thereby ignoring the prevailing rules and regulations. Again above said that allowed reservations facilities to the Scheduled Castes and Scheduled Tribes in the promotional aspects of public services.

Article 17 abolished untouchability and prohibited its practice in any form. It empowered the Parliament to formulate laws in this regard. Accordingly, Indian Parliament formulated the Untouchability Offence Act in 1955. That Act has been termed as Civil Rights Preservation of Atrocities Act since 1976. Later the Parliament in 1989 approved the Scheduled Castes and Scheduled Tribes Act for imposing penalty and punishment extending from six to seven years. In this regard, the Supreme Court held that the right under Article 17 is available against private individuals and it is the constitutional obligation of the State to take necessary action to ensure that this right is not violated.

Article 18 prohibits the State to confer any title, other than military or academic distinction on the citizens. It prohibits the citizens to accept any title from foreign states without the consent of the Indian President. It also prohibits the citizens to accept an office of profit or trust from other States. However, it allows the State to confer certain titles like Padmasri, Padma Vibhushan, Bharat Ratna etc. in social and educational matters, Paramaveerachakra, Mahaveerchakra etc to military personnel basing on outstanding performances.

2. Right to Freedom

Right to freedom is another fundamental right conferred to Indian citizens. It comprises a) Freedom of speech and expression, b) Freedom of peaceful assembly without arms, c) Freedom of form associations and unions, d) Freedom of free movement throughout the territory of India, e) Freedom of residence and settlement in any part of the territory of India, and f) Freedom of practice any profession, occupation, trade or business. Originally, Article 19 contained seven freedoms. But Article 19(1)(f) denoting freedom to acquire, hold and dispose of property was deleted by the constitution (Forty Fourth Amendment) Act of 1978. As a result at present there are only six freedoms. Various types of freedom are given in the following diagram.



The makers of Indian Constitution felt that these freedoms would facilitate the progress of Indian citizens in social, political and economic spheres. These freedoms are not absolute. It may be noted that the State may, if necessary, impose certain reasonable restrictions on the enjoyment of the above freedoms by the Indian citizens. These restrictions relate to the maintenance and safeguarding of the independence, sovereignty, integrity, law and order, relation with other States, morality, defiance of courts and loss of dignity etc. Similarly the State can impose certain specific restraints against the above freedoms for safeguarding the interests of common masses or Scheduled Castes and Scheduled Tribes.

- (i) ***Protection of Life and Personal Liberty:*** Article 20 deals with personal life and liberty that provides for the protection in respect of conviction for certain offences. It prohibits the promulgation of 'ex-post facto laws', or laws having retrospective effects. It also says that, no citizen can be denied his or her life except by procedure as lay down under the law. Similarly, no one can be denied his or her personal liberty. That means no one can be detained without reasons for such an arrest. If a person is arrested, then he or she has the right to defend himself by an advocate of his choice. Also, it is mandatory for the police authorities to produce that person to the nearest magistrate within 24 hours. The magistrate, who is not part of the police department, will decide whether the arrest is justified or not.

Various judgments of Supreme Court have expanded the scope of this right. The Supreme Court has ruled out that this right also includes right to live with human dignity, free from exploitation. The Supreme Court has held that right to shelter and livelihood must be included in the right to life because no person can live without any means of livelihood.

Article 21 specifies that no person shall be deprived of his life or personal liberty, except, according to the procedure established by law. It should be noted that the rights granted under Articles 20 and 21 cannot be suspended even during the emergencies.

- (ii) ***Preventive Detention in certain cases:*** Ordinarily, a person would be arrested after he or she has reportedly committed some offence. However, there are exceptions to this. Sometimes a person can be detained simply out of an apprehension that he or she is likely to engage in unlawful activity and imprisoned for some time without following the above mentioned procedure. This is known as preventive detention. It means that if the government feels that a person can be a threat to law and order or to the peace and security of the nation, it can detain or arrest that person. This preventive detention can be extended only for three months. After three months such a case is brought before an advisory board for review.

- (iii) ***Recent Amendment to Article 21 :*** Recently the constitution (Eighty Sixth) Amendment Act, 2002 through Article 21A made it mandatory for the State to provide free and compulsory education to all children of six to fourteen years. This Amendment was made mandatory in August 2009 with the assent of the Indian

President after the concurrence of a special bill by the Parliament. Later, the Act came into existence on April 2010.

After various judgments of the Supreme Court, the following rights have become an integral part of Article 21. (a) Right to honorable life (b) Right to environmental safety (c) Right to health, (d) Right to seek free legal aid, (e) Right to visit foreign countries, (f) Right to opposed lockup deaths, and (g) Right to information.

(iv) Rights of accused: Our Constitution ensures that persons accused of various offences would also get sufficient grounds to exercise their rights. We often tend to believe that anyone who is charged with some offence is guilty. However, no one is guilty unless the court has found that person guilty of an offence. It is also necessary that a person accused of any crime should get adequate opportunity to defend herself or himself. To ensure a fair trial in courts, the Constitution has provided three rights:

1. No person shall be punished for the same offence more than once
2. No law shall declare any action as illegal from a backdate, and
3. No person shall be asked to give evidence against him or her.

3. Right against Exploitation

In our country, there are millions of people who are underprivileged and deprived. They are subjected to exploitation by their fellow human beings. One such form of exploitation is 'begar' or 'forced labour' without payment. Another closely related form of exploitation is trafficking of human beings and using them as slaves. Both are prohibited under Article 23 of our constitution.

Article 24 of the Indian Constitution forbids all forms of child labour below the age of 14 years in factories, mines and other hazardous industries. However, the State has the authority to prescribe compulsory military service for public purposes without any discrimination. Thus, this right against exploitation has become more meaningful.

4. Right to Freedom of Religion

This right denotes the secular nature of Indian political system. It aims at transforming India into a secular state. Both the citizens and aliens of India enjoy this right.

Article 25 empowers every person to profess, practice and propagate a religion of his liking. However, the State can make a law regulating the activities of religious publicity or

propaganda by the individuals in the larger national interests. Individuals, while enjoying or popularizing religious rights, must consider public order, morality and public health of others in the country. This means that the freedom of religion is not an unlimited right. The government can interfere in religious matters for rooting out certain social evils. For example, the government has taken steps banning practices like 'Sati' bigamy or human sacrifice. Such restrictions can't be opposed in the name of interference in right to freedom of religion. It is to be noted that the constitution does not allow forcible conversions. It only gives us the right to spread information about our religion and thus attract others to it.

Article 26 guarantees the following rights to every person

1. To establish and maintain religious and charitable institutions.
2. To manage his/her religious affairs.
3. To own and acquire moveable and immovable properties, and,
4. To maintain such properties in accordance with the provision of the law.

Article 27 prohibits the State to impose or collect taxes from individuals purely on religious grounds. It also prohibits the State to impose and collect taxes for the benefit and maintenance of any particular religion or religious denominations.

Article 28 bans religious instructions in educational institutions wholly or partly maintained by the State funds. No person admitted to any educational institutions, recognized by the State or receiving State fund, shall be required to take part in any religious instruction imparted in such institutions.

5. Educational and Cultural Rights

Indian Constitution provided several cultural and educational opportunities for Indian citizens through this right. Article 29 enables every citizen to preserve and protect his own language and culture irrespective of one's religion, language or region. It also entitles the minorities to preserve their language and culture. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the grounds of religion, race, caste and language or any of them.

Article 30 prohibits special treatment to any citizen in the admission into educational institutions either wholly or partly funded by the State on the grounds of caste, religion, region, colour, language or sect. However, it allowed the minorities some special facilities for preserving and promoting their language and culture. The State can grant financial assistance

to them in this regard. This right allows the minorities to enjoy identical religious, educational and cultural rights on par with the majority people.

6. *Right to Property*

This right was granted to the Indian citizens under Article 19 (1)(f) and Article 31. Article 19(1)(f) provides freedom to the citizens to acquire, possess, enjoy and dispose of their property according to their wishes. Article 31 prescribes that the State shall not take over the properties of citizens against the provisions of existing laws. However, many limitations have been imposed on this right through the addition of sections A, B, C and D to Article 31.

As per Article 31(A) the State can take over the private properties in public interests. Article 31(B) provides protection to Land Reform Acts of state governments by including them in the Ninth Schedule of the constitution. Article 31(C) declared that all laws seeking to implement Article 39(B) and Article 39(C) referring Directive Principles of State Policy shall be valid. Article 39(B) and Article 39(C) which were added through the constitution (Forty Second Amendment) Act, 1976 remain valid even though they are against the Articles 14 and 15. The judicial organizations are deprived of their power of enquiring the cases declaring judgments in this regard. Finally the constitution (Forty Fourth Amendment) Act, 1978 completely deleted right to property from the list of Fundamental Rights. Since then this right remained as a mere legal right under Article 300(A).

7. *Right to Constitutional Remedies*

This right is the most significant of all the Fundamental Rights. It extends protection and relief to those whose Fundamental Rights were abridged, confiscated or infringed by others including, the public authorities. Dr.B.R. Ambedkar rightly described this right as ‘heart and soul of the Constitution’. As this right gives a citizen the right to approach a High Court under Article 226 or the Supreme Court under Article 32 to get any of the Fundamental Rights restored in case of their violation, the Supreme Court and the High Courts can issue orders and give directions to the governments for the enforcement of the above rights. The courts can issue various writs like Habeas Corpus, Mandamus, Prohibition, Quo warranto and Certiorari.

2.1.4 **Restrictions on Fundamental Rights**

Fundamental Rights are meant for the overall development of Indian citizens. They serve as the best device for the expression and realization of the views of Indian citizens. Indian citizens must exhibit wisdom, reason, rationality and positive outlook while utilizing these rights. They have to keep in mind self development and social progress. In this context,

we must know that the following restrictions have been imposed by the Constitution on the Fundamental Rights.

1. Under Clause (2) to Clause (5) of Article 19, the State can impose reasonable restrictions on the enjoyment of six fundamental freedoms in the interests of public order, morality, friendly relations with foreign states, public health etc.
2. Under Article 352 the President of India can declare national emergency during which period he can suspend all the Fundamental Rights except Articles 20 and 21.
3. The Parliament can impose some restraints on Clause (4), (5), (6) and Clause (7) of Article 22. Accordingly, the Parliament enacted several laws in this connection such as Preventive Detention Act, 1950, Maintenance of Internal Security Act (MISA) 1971, National Security Act 1980 (NSA); Prevention of Black Marketing, Maintenance of Essential Commodities Act, 1980, Terrorist Armed Disruption Act (TADA), 1985 etc. The various state governments also formulated Prevention Detention Acts within their jurisdiction.

2.1.5 Significance of Fundamental Rights

Fundamental Rights are significant in the following respects.

1. The Fundamental Rights constitute the bed-rock of democratic system
2. They provide necessary conditions for the material and moral progress of citizens.
3. They serve as a formidable bulwark of individual liberty.
4. They facilitate the establishment of Rule of Law.
5. They protect the interests of weaker sections and minorities.
6. They strengthen the secular fabric of the Indian State.
7. They check the despotic tendencies of the government.

2.2 Directive Principles of State Policy

Directive Principles of State Policy are enumerated in Article 36 to 51 in Part-IV of the Indian Constitution. They are borrowed from the Irish Constitution. They help in realizing the objectives mentioned in the Preamble. Dr.B.R.Ambedkar described these Principles as “novel feature of the Indian Constitution”. These principles are similar to the Instrument of Instructions of the Government of India Act, 1935. These principles apply to the executive, legislative and local self authorities functioning at Union, State and local levels.

Directive Principles serve as the best means for ensuring social, economic and political justice and freedoms for all Indians. The survival and future of the various political parties and governments depend to a large extent upon the progress achieved through the implementation of these principles.

2.2.1 Evolution of Directive Principles

The origin of Directive Principles can be traced back to the Roman Empire. Later they were adopted by Spain and Ireland. Many States like former Czechoslovakia, Yugoslavia and the present China adopted these principles. There was a reference of these principles in the Weimar Constitution of Germany.

In regard to India, the makers of our Constitution felt that these principles would achieve social welfare and nation's prosperity. They have taken into consideration the desires, aspirations and interests of ordinary people. They aim at transforming India into a welfare state. Several efforts are made for realizing the democratic ideals in social, economic and political spheres.

The makers of Indian Constitution considered several elements while including these principles in the Constitution. They adopted some of the principles from the Karachi Congress Resolution (1931), Universal Human Rights Declaration (1948), Gandhian principles, Socialist principles etc. *G.N.Joshi* described that these principles are the comprehensive programme of political, economic and social nature.

2.2.2 Characteristic Features of Directive Principles of State Policy:

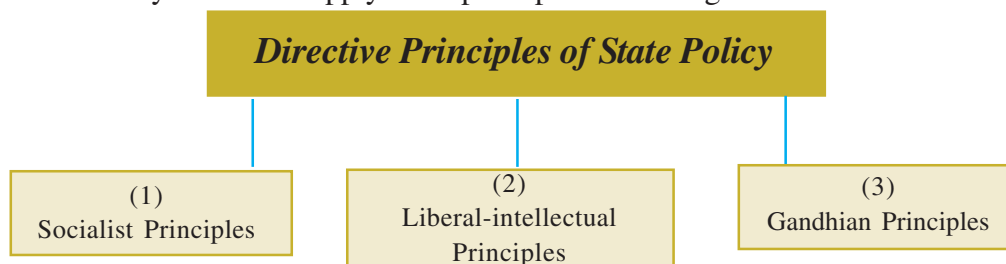
The following are the characteristic features of the Directive Principles of State Policy:

1. Directive Principles of State Policy are fundamental in the governance of the country.
2. They are in the form of Directives or Instructions issued to the successive governments in India.
3. They are positive in nature as they extend the jurisdiction of the governments at various levels in India.
4. Enforcement of these principles depends upon the availability of financial resources of the State.
5. They are popular in nature as they aim at the establishment of egalitarian society.
6. They have to be implemented by any party in power irrespective of its political ideology.

7. Failure to implement these principles is not considered as a breach of law.
8. They are non-justiciable in nature as no one can force the government to implement them immediately. The governments have discretion in implementing these principles.
9. They aim at realizing political democracy, economic equality and social justice in the country.
10. Social welfare, instead of individual progress, is the main theme of these principles.

2.2.3 Types of Directive Principles of State Policy

The Constitution of India does not contain any classification of Directive Principles. However, on the basis of their content and direction they can be classified into three broad categories viz., socialistic, liberal-intellectual and Gandhian principles. Article 36 defines the term 'State'. Article 37 declares that the Directive Principles shall not be enforceable by any court. However, these principles are fundamental in the governance of the country and it shall be the duty of State to apply these principles in making laws.



1. *Socialist Principles*

Socialist Principles reflect the ideology of democratic and socialistic State. They aim at providing social and economic justice. Articles 38, 39, 41, 42, 43, 46 and 47 explain about the socialist ideology of the Directive Principles of State policy.

1. Article 38 provides that the State shall strive to promote the welfare of the people by securing and protecting a social order in which justice (social, economic and political) shall be ensured to all the people.
2. Article 39 has laid down that the State shall direct its policy in securing:
 - i) Adequate means of livelihood for all citizens;
 - ii) Equitable distribution of wealth for sub-serving the common good;
 - iii) Equal pay for equal work for all;
 - iv) Protection of adult and child labour;

- v) Decentralization of nation's wealth;
 - vi) Preserving the health and strength of workers, men and women;
 - vii) Protecting childhood and youth against exploitation;
3. To secure right to work and education for all people, relief in the case of unemployment; old age, sickness and disablement and in other cases of underserved want. (Article 41);
 4. To make provision for just and human conditions of work and maternity relief (Article 42);
 5. To secure living wage and decent standard of life so as to ensure to the workers sufficient leisure and enjoyment of social and cultural opportunities.(Article 43);
 6. Raising the level of nutrition and standard of living of the people and the improvement of public health. (Article 47);

2. *Liberal-intellectual Principles*

The principles represent the ideology of liberalism and certain objectives like provision of basic education, uniform civil code, independent judiciary and international peace. They are incorporated in Articles 44, 45, 50 and 51 of the Constitution.

1. The State shall secure for the citizens uniform civil code throughout the country. (Article 44)
2. The State shall provide free and compulsory education for all the children below 14 years of age. The Constitution (Eighty Sixth Amendment) Act, 2002 substituted the following words in Article 45. "The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years." (Article 45)
3. The state organize agriculture and animal husbandry on modern and scientific lines (Article 48)
4. The state protect monuments which are declared to be of national importance (Article 49)
5. The state protect and improve the environment and to safeguard forests and wild life (Article 48A)
6. The State shall take steps to separate judiciary from executive in public services of the State. (Article 50)

7. The State shall (a) promote international peace, justice and security. (b) Maintain just and honorable relations with other nations (c) protection of monuments and place of historical and cultural interest (d) respect for international laws and treaty obligations; and (d) encourage settlement of international dispute by arbitration. (Article 51)

3. Gandhian Principles

These Principles are based on gandhian ideology. They represent the programme of reconstruction enunciated by Mahatma Gandhi during the national movement. These principles provide ideal rule in India. They are reflected in Articles 40, 43, 46 and 47. They may be enumerated as under:

1. The State shall organize village Panchayats and endow them with adequate powers and authority so as to enable them to function as the units of self-government. (Article 40)
2. The State shall strive for the promotion of cottage industries on individual or cooperative basis in rural areas. (Article 43)
3. The State shall promote the educational and economic interests of the SCs, STs and BCs of society with special care. (Article 46)
4. The State shall endeavour to bring about prohibition of intoxicating drinks and of drugs which are injurious to health (Article 47)

Other Principles

The Constitution (Forty Second and Forty Fourth Amendment) Acts of 1976 and 1978 added a few more subjects to the list of Directive Principles. While the the Constitutio (Forty Second Amendment) Act inserted Articles 39A, 43A and 48A, the Constitution (Forty Fourth Amendment)Act included Article 39 Clause (2). They comprise the following provisions.

1. Providing opportunities for healthy development of children.
2. Promotion of equal justice and legal aid to the poor
3. Securing participation of workers in the management of industries
4. Protecting the environment, forests and wild animals

2.2.4 Significance of Directive Principles of State Policy

Directive Principles of State Policy are considered as the most significant feature of the Indian Constitution. The makers of Indian Constitution left the implementation of these principles to the discretion of the future governments. Granville Austin has described the Directive Principles and Fundamental Rights as ‘the conscience of the constitution’. Dr.B.R.Ambedkar, the Chairman of Drafting Committee, narrated these Principles a ‘novel feature’ of Indian constitution. This part of the Constitution should be regarded as the sister part of all that we have seen in the list of Directive Principles of State Policy. As such, Part-III and Part-IV of our constitution are integral parts of the original law of the land.

Directive Principles are to be implemented by any party in power. Hence they serve as guide lines to the legislative and executive branches of the government. They create a congenial atmosphere for the people for enjoying their rights. They provide a roadmap of reforms to the government. They ensure stability and continuity of the policies of the future governments.

Eminent Constitutional experts like Ivor Jennings, Prof. Srinivasan, G.N.Joshi, Prof.K.T.Shah, K.C.Wheare, T.T.Krishnamachari and Nasiruddin Ahmed considered the Directive Principles of State Policy as hallow promises, showcase Articles and solemn resolutions that are mere ornamental in nature. Ivor Jennings felt that these principles have no uniform doctrine. *Prof.K.T.Shah* described them as ‘the cheque payable by a bank at its convenience’. *Nasiruddin Ahmed* criticized that these principles are like New Year wishes which are ignored on the next day.

2.2.5 Differences between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights and Directive Principles of State Policy are two important features of the Indian Constitution. Both are important from the social perspective. They differ from one another as under:

2.2.6 Relationship between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights	Directive Principles of State Policy
1. Fundamental Rights are derived from the Bill of Rights of the Constitution of the USA	1. Directive Principles of State Policy are drawn on the model of the Constitution of Ireland.
2. They are incorporated in Part-III of the Indian Constitution from Articles 12 to 35.	2. They are embodied in Part-IV of the Indian Constitution from Articles 36 to 51.
3. They are justiciable rights. It means that they are enforceable by a court of law.	3. They are non-justiciable rights. It means that they are not enforceable by law.
4. They are legal in nature.	4. They are social in nature.
5. They are guaranteed by the Constitution.	5. They are not guaranteed by the Constitution.
6. They are negative in nature as they restrict the sphere of State activity. It means it presents the government from doing certain things.	6. They are positive in nature as they extend the sphere of State activity. They exhort the government to do certain things.
7. They are individual – oriented.	7. They are social welfare-oriented.
8. They are imperative as they do not allow others to interfere in one’s rights.	8. They are not imperative as they do not entitle a person to file a petition in a court of law for their enforcement.
9. They are meant for the citizens	9. They are meant to the society at large
10. They are enforceable without a separated legislation.	10. They can be implemented only by making a relevant legislation.
11. These rights help in transforming India into a democratic State in political sphere.	11. They enable the State to achieve social and economic democracy in India.
12. The significance of these rights is legal.	12. The significance of these rights is moral rather than legal

It is possible to see that both Fundamental Rights and Directive Principles are complementary to each other while Fundamental Rights restrain the government from doing certain things, Directive Principles exert the government to do certain things. While Fundamental Rights mainly protect the rights of individuals Directive Principles ensure the well-being of the entire society.

However, when government intends to implement Directive Principles of State Policy, there arises a conflict with the Fundamental Rights of the citizens.

2.2.7 Changing Relationship between Fundamental Rights and Directive Principles

Although a distinction is made between Fundamental Rights and Directive Principles of state policy by way of justiciable and non-justiciable nature. Yet over the years, Directive Principles of state policy have become politically important and the relation between the two has undergone several changes.

Now the debatable question is what would happen in case of a conflict between Fundamental Rights which denote the interests of the individuals, and the Directive Principles of the state policy, which stand for the welfare of the society. This conflict has become a political issue. The socialist-oriented Congress Party which remained in power at the centre for longer period, sought to implement its socialist policies through Parliamentary legislation which came into direct conflict with the basic freedoms of the people as enshrined in Part-III of the Constitution.

The Supreme Court consistently held the opinion that the Directive Principles of State Policy should be subsidiary to the Fundamental Rights. Judgments in various disputes like *Sajjan Singh Vs the State of Rajasthan*, *Qureshi Vs the State of Bihar* and *Golaknath Vs State of Punjab*, the Supreme Court confirmed its stand and reiterated that it is the duty of Parliament to enforce the Directive Principles without tampering the Fundamental Rights.

As a result of the invalidation of certain laws like the Nationalization of Banks, Abolition of Privy Purses, the Parliament enacted the (Twenty Fifth Amendment) Constitution Act in 1971 which declared that the enforcement of the Directive Principles of State policy shall not be invalidated by any court on the ground that it violates the Fundamental Rights in Articles 14, 19 and 31 of the Constitution.

Again the (Forty Second Amendment) Constitution Act passed by Parliament in 1976 declared that no law, giving effect to any or all Directive Principles, shall be invalid on the ground that it infringes on Fundamental Rights. However, in the *Minerva Mills* case, the

Supreme Court restricted the original supremacy and sanctity of the Fundamental Rights over the Directive Principles of State Policy. Thus, the Fundamental Rights have primacy over the Directive Principles.

In the case of *Keshavananda Bharati Vs State of Kerala*, the Supreme Court held that the Parliament cannot amend the basic structure of the Constitution. By implication the Supreme Court considered Fundamental Rights as a part of the basic structure of the Constitution.

2.2.8 Implementation of Directive Principles of State Policy

Keeping in view the fact, Directive Principles of State Policy are fundamental in the governance of the country. The Union as well as the State Governments, since 1950, have been continuously taking various steps to implement them from time to time. These are mentioned below:

1. Abolition of Zamindari, Jagirdari and Inamdari systems
2. Introduction of Land Ceiling Acts.
3. Abolition of Privy Purses.
4. Nationalization of 14 leading commercial banks
5. Establishment of Khadi and Village Industries Board etc
6. Organization of Village Panchayats.
7. Reservation of seats are reserved for SCs and STs in educational institutions and representative bodies
8. Enactment of Ancient and Historical Monuments and Archeological Sites Remains Act 1951.
9. Separating criminal procedure code from the executive
10. Prohibition of cow slaughter, calves and bullocks in some States
11. Establishment of primary health centers and hospitals throughout the country
12. Implementation of Non-Alignment and Panchasheel Principles
13. Initiation of old age pension schemes
14. Introduction of unemployment schemes
15. Enactment of Minimum Wages Act
16. Enactment of Wild Life Act

2.3 Fundamental Duties

Fundamental Duties are a significant feature of Indian Constitution. These duties are incorporated in the Constitution of erstwhile USSR. They were not included at a place in our Constitution in the beginning. However, Sriman Narain Agarwal in his 'Gandhian Constitution for Free India' (1946) cited some of the Fundamental Duties. After independence many changes have taken place in the political and Constitutional affairs in India. The Union Government during (1975-1977) contemplated the idea of incorporating some Fundamental Duties in the Constitution.

After considering the Universal Declaration of Human Rights (1948) and Soviet Model of Fundamental Duties, the central government appointed Sardar Swaransingh Committee (1976) for incorporating the Fundamental Duties in our Constitution. The committee examined the duties mentioned in various world Constitutions and suggested for the inclusion of eight Fundamental Duties in Indian Constitution. Accordingly, the party in power introduced the (Forty Second Amendment) Constitution Bill 1976 in the Parliament and approved ten Fundamental Duties. They are included in Article 51-A under Part-IVA of our Constitution. Later one more duty was added to the above list through the constitution (Eighty Sixth Amendment) Act, 2002. As a result, at present, the Indian Citizens are endowed with eleven Fundamental Duties. According to Article 51A of the Indian Constitution, they are:

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem;
2. To cherish and follow the noble ideals which inspired our national struggle for freedom;
3. To uphold and protect the sovereignty, unity and integrity of the nation;
4. To defend the country and render national service when called upon to do so;
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, and to renounce practices derogatory to the dignity of women;
6. To value and pressure the rich heritage of our composite culture;
7. To protect and improve the natural environment including forests, lakes, rivers and wild life and have compassion for living creatures;
8. To develop scientific temper, humanism and the spirit of inequity and reform;
9. To safeguard public property and to abjure violence;

10. To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement, and
11. To provide educational opportunities by the parent or guardian to his child or ward between the age of six and fourteen years.

While the first ten Fundamental Duties came into force with effect from January 3, 1977, the eleventh Fundamental Duty came into force with effect from December 12, 2002.

2.3.1 Relevance of Fundamental Duties

Sardar Swaran Singh Committee of Indian National Congress suggested criminal proceedings against those who neglect the Fundamental Duties. However, the Union Government left this matter to the discretion of the citizens. The Supreme Court in *Bijoe Emanuel Vs State of Kerala* (1986) made it clear that not showing respect to the national anthem is not a crime. Justice Ranganatha Mishra in this context urged the Supreme Court to modify such a decision basing the Supreme Court instructions to the Union Government. Consequently, the Union Government set up a committee in July 1998 under the chairmanship of Justice J.S.Varma. It made the following suggestions in 1999.

1. Observing January 3rd every year as Fundamental Duties day.
2. Setting up of a national agency for bringing awareness among the people.
3. Broadcasting and telecasting Fundamental Duties through All India Radio and Television channels.
4. Display of notice boards denoting Fundamental Duties in all public places and government offices.
5. Setting up of an independent mechanism on the model of Ombudsman.
6. Inclusion of Fundamental Duties in petty booklets understandable to the ordinary people.
7. Regulations upon the cinemas and television channels against unethical and anti-family oriented programmes.
8. Introducing N.C.C. activities in all type of educational institutions, etc.

Some Constitutional experts, administrators and legal luminaries felt that Fundamental Duties cannot be enforced due to their inclusion in part IVA under Article 51A. It does not mean that governments should not be indifferent in their implementation. For instance the Supreme Court in a petition filed by the retired Chief Justice, Ranganath Mishra instructed the

Union Government in August 2007 for enforcing the certain laws for implementing Fundamental Duties. But the Supreme Court cautioned that the various governments shall be vigilant depending upon the situation.

The list of Fundamental Duties is not exhaustive as it does not cover other important duties like casting vote, paying taxes, family planning and so on. In fact, duty to pay taxes was recommended by the Sardar Swaransingh Committee. Some of the Fundamental Duties are vague, ambiguous and difficult to understand by the common man. For example different interpretations can be given to the phrases like noble ideals, scientific temper and so on.

2.3.2 Significance of Fundamental Duties

Fundamental Duties are aimed at making Indian citizen socially conscious and responsible. They are in consonance with the Universal Declaration of Human Rights approved by the UN General Assembly in 1948 December 10.

Fundamental Duties are considered most significant from the following view points.

1. The Fundamental Duties act as a reminder to the Citizens that while enjoying their rights, they should also be conscious of duties they owe to their country, their society and to their fellow citizen.
2. They serve as a warning against anti national and anti social activities.
3. They serve as the source of inspiration for the citizens and promote sense of discipline and commitment among them.
4. They help the courts in examining and determining the Constitutional validity of a law.

Summary

Fundamental Rights, Directive Principles and Fundamental Duties are the most significant features of Indian Constitution. While Fundamental Rights and Fundamental Duties are meant for Indian Citizens, Directive Principles are intended for the various governments in India. Fundamental Rights provide several opportunities for the citizens for developing their personality. They expand individual's activities to the entire human life. No one, including the State in normal conditions, is allowed to interfere or confiscate Fundamental Rights of the citizens. The judiciary protects the Fundamental Rights by the means of 'Judicial Review'. Hence, Fundamental Rights form on the basis of human existence in India.

Directive Principles are quite opposite to the Fundamental Rights. These principles extend the activities of the State in social, economic and political spheres. The various governments undertake several welfare measures for the overall progress of various sections, especially economically backward people, disadvantaged, disabled and unfortunate persons in society. Directive Principles, when implemented sincerely, will transform India into a Welfare, Socialist and Gandhian State.

Fundamental Duties aim at making individuals responsible, rational and reasonable in their day-to-day life. They ensure peace, order and stability in the country. They avoid tensions and conflicts among individuals. They make the citizens duty conscious and cooperative in their interaction with fellow citizens.

QUESTIONS

I. Long Answer Questions

1. Explain the characteristic features of Fundamental Rights.
2. Explain the various types of Directive Principles of State Policy mentioned in Indian Constitution.
3. Describe the Fundamental Duties incorporated in Indian Constitution.
4. Explain the differences between Fundamental Rights and Directive Principles of State Policy.

II. Short Answer Questions

1. Write a note on the changing relationship between Fundamental Rights and Directive Principles of State Policy.
2. Explain any three fundamental rights of a citizen
3. Describe the six freedoms of a citizen.
4. Write briefly on the Right to Constitutional Remedies.
5. Explain any five differences between Fundamental Rights and Directive Principles of State Policy.
6. Explain the important characteristics of Directive Principles of State policy.
7. Examine the implementation of Directive Principles of State Policy.
8. Explain the significance of Directive Principles of State Policy.

III. Very Short Answer Questions

1. Fundamental Rights
2. Types of Directive Principles
3. Habeas Corpus
4. Mandamus
5. Cultural and Educational Rights
6. Gandhian Ideas of Directive Principles of State Policy
7. Significance of Fundamental Duties
8. Mention any three liberal principles
9. Quo-warranto
10. Right to Religion
11. Right against Exploitation

CHAPTER 3



The Union Executive

3.0 Introduction

3.1 Union Executive

3.2 The President of India

3.3 The Vice- President of India

3.4 The Prime Minister of India

3.5 Union Council of Ministers

Summary

Questions

3.0 Introduction

Legislature, Executive and Judiciary are the three organs of the government. Together they perform the functions of the government such as maintaining law and order and looking after the welfare of the people etc. It is upon the government that the name, fame and progress of the country depend to a great extent. The Constitution ensures that they work in coordination with each other and maintain a balance among themselves. The Union Government takes decisions and acts according to the wishes and aspirations of the people. The matters concerning Union Government are dealt in Articles 52 to 147 in Part-V of our Constitution.

Union Government comprises (i) Union Executive (ii) Union Legislature and (iii) Union Judiciary. These three organs exercise authority and fulfill their obligations with cooperation, coordination and cohesion. In this chapter, we will discuss the composition, structure and functions of the union executive.

3.1 Union Executive

The Constitution of India provides for the Union Executive. Articles 52 to 78 in part V of the Constitution deal with the Union Executive. The Union Executive consists of (i) The President (ii) The Vice – President (iii) The Prime Minister and (iv) The Union Council of Ministers.

The Constitution of India adopted the Parliamentary form of executive for the governments both at national and state levels. According to this system the President is the head of the State at the national level in Union Government. We also observe the offices of Vice- President, the Prime Minister and the Union Council of Ministers to assist the President in exercise of his powers and functions. The Vice-President has no considerable executive powers. But he plays an important role in the law making affairs as the Ex-Officio Chairman of Rajya Sabha. The Prime Minister and his team of Ministers will act as the *de-facto* executive in union affairs. The Prime Minister being appointed by the President, will render advice to the former in the matters of the Union Government. The Union Council of Ministers is appointed by the President on the advice of the Prime Minister. It occupies significant place in the maintenance of the respective ministries. All these matters of Union Executive are dealt in this chapter.

3.2 The President of India

Article 52 created the office of the President. The President is the Constitutional head of the Indian Union. He is the first citizen of India. He symbolizes the unity, integrity and solidarity of the nation. He has the solemn duty of preserving and defending the constitution and the laws of Indian union. Our Constitution prescribed Parliamentary System for India, under which the President acts as a nominal executive head in normal times. He exercises his powers either directly or through officers who are subordinate to him, i.e., the Prime Minister, the Council of Ministers and others. He also exercises some extraordinary powers during the period of emergency.

3.2.1 Qualifications

A person to be eligible to contest the office of the President shall possess the following qualifications.

1. He should be a citizen of India
2. He should have completed the age of 35 years.
3. He should be qualified for election as a member of the Lok Sabha and
4. He should not hold any office of profit under the Union or State governments or local authorities or any public authority.

3.2.2 Election

The President of India shall be elected indirectly by an *electoral college* consisting of the elected members of both Houses of the Union Parliament. State Legislative Assemblies and elected members of Delhi and Puducheri. The election is held in accordance with the system of proportional representation by means of a single transferable vote system and secret ballot. A candidate who secures the required quota of votes will be declared elected to the office of the President.

3.2.3 Term of Office

The President's term of office is 5 years from the date of assuming the power. He is eligible for re-election. Even after the expiry of the term, he continues in office until his successor is elected and assumes the office. Normally, the Presidential election is held well in advance before the expiry of the term of the person holding the office.

Succession List of the Indian Presidents

S.No.	Name of the President	Tenure	
		From	To
1	Dr. Rajendra Prasad	26.01.1950	13.05.1962
2	Dr. Sarvepalli Radha Krishnan	13.05.1962	13.05.1967
3	Dr. Zakir Hussain	13.05.1967	03.05.1969
4	Varahagiri Venkatagiri (Acting)	03.05.1969	20.07.1969
5	Justice Mohammad Hidayathullah (Acting)	20.07.1969	24.08.1969
6	Varahagiri Venkatagiri	24.08.1969	24.08.1974
7	Fakruddin Ali Ahmad	24.08.1974	11.02.1977
8	Basappa Danappa Jetti (Acting)	11.02.1977	25.07.1977
9	Neelam Sanjeeva Reddy	25.07.1977	25.07.1982
10	Giani Zail Singh	25.07.1982	25.07.1987
11	Ramaswamy Venkatraman	25.07.1987	25.07.1992
12	Dr. Shankar Dayal Sharma	25.07.1992	25.07.1997
13	Dr. Kochairil Raman Narayanan	25.07.1997	25.07.2002
14	Dr. Avul Pakir Jainulabdin Abdul Kalam	25.07.2002	25.07.2007
15	Smt. Pratibha Devisingh Patil	25.07.2007	25.07.2012
16	Pranab Mukharjee	25.07.2012	Till date

3.2.4 Impeachment Procedure

The President can be removed from the office by a process of impeachment for ‘violation of the constitution’. Impeachment is a quasi-judicial procedure adopted by the Parliament. The resolution to impeach the President can be moved in either House of the Parliament. The President’s office remains vacant within the term of five years in either of three ways:

- (a) By addressing the resignation letter to the Vice-President expressing his inability to perform his duties due to ill health
- (b) By his death
- (c) By removal for violation of the Constitution, through the process of *impeachment*

There are four stages in the impeachment of the President.

Firstly, the impeachment resolution has to be moved within 14 days of prior notice in writing signed by not less than 1/4th of the total members of that House. Such a resolution has to be passed by a majority of not less than 2/3^{rds} of the total members of the House.

Secondly, the resolution approved by the first House will be sent to the second House for consideration and approval.

Thirdly, the second House investigates into the charges directly or constitutes a committee to enquire into the charges. The President has the right to present his views directly or through a deputy during such enquiry.

Fourthly, if the charges against the President are accepted by 2/3^{rds} majority of the total members of the second House, the President stands removed from the office. With regard to voting on the resolution for impeachment, only the elected members cast their vote.

No President has so far been impeached in our country till today.

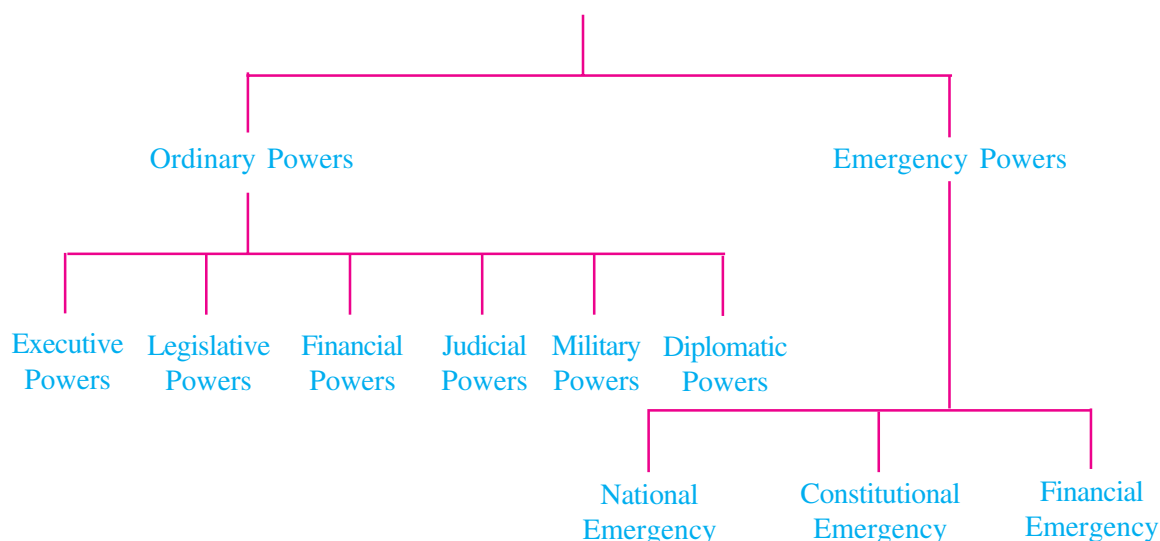
3.2.5 Salary and Allowances

The President now gets a monthly salary of Rs. 1,50,000/-. He is provided Rs. 22.5 crores every year for meeting the expenses on travel, entertainment and towards the maintenance of personnel and household staff etc. His official residence is Rastrapathi Bhavan at New Delhi. On retirement, he will get a monthly pension of Rs. 75, 000/- besides a furnished rent free bungalow, telephone, personal staff etc.

3.2.6 Powers and Functions of the President

The President of India is the constitutional head of the Indian Union. The Constitution of India vests all executive powers of the union formally in the President. However, in reality, the President exercises these powers on the advice of the Union Council of Ministers headed by the Prime Minister.

The President has no power to act in his discretion in most of the cases. He must act only on the advice of the Union Council of Ministers, headed by the Prime Minister. So refusal to act according to such advice will render him liable to impeachment for violation of the constitution.



Powers and functions of the President of India

The powers enjoyed and the functions performed by the President can be studied under the following heads:

A. Ordinary Powers

The President of India is the formal head of the government. In this formal sense, the President has wide ranging executive, legislative, judicial and Emergency powers. In a Parliamentary system, these powers are in reality exercised by the President only on the advice of the Union Council of Ministers headed by the Prime Minister. Following are some important ordinary powers of the President:

1. Executive Powers

According to Article 53, the President enjoys all executive powers of the Union Government. All the executive decisions and actions of the Union Government are expressed and enforced in his name. The executive power of the President includes

the power to appoint the following high dignitaries, committees and commissions of the Union Government.

- i) The Prime Minister of India,
- ii) Members of the Union Council of Ministers,
- iii) The Attorney General of India,
- iv) The Comptroller and Auditor General of India,
- v) The Judges of the Supreme Court,
- vi) The Judges of the High Courts,
- vii) State Governors, Lieutenant Governors and Administrators of Union Territories,
- viii) The Chief Election Commissioner and other Election Commissioners and
- ix) Chairmen and other members of
 - (a) Union Public Service Commission,
 - (b) The Finance Commission,
 - (c) Official Language Commission,
 - (d) Backward Class Commission,
 - (e) Linguistic Minorities Commission and special officer of Scheduled Casts and Scheduled Tribes etc.

2. *Legislative Powers*

According to Article 79, the President is an integral part of the Parliament. He summons, prorogues the meetings of the Parliament and dissolves the Lok Sabha. He inaugurates the first session and annual session of the Parliament. He conveys his views in the form of messages to both the Houses of the Parliament. He nominates two Anglo-Indian members to the Lok Sabha and twelve members to the Rajya Sabha. He convenes a joint sitting of the two Houses in case of a dead lock between them on a Bill. He summons a special session of the Parliament during the visit of foreign dignitaries. He may issue ordinances when the Parliament is not in session. He gives or with holds his assent to the bills sent by the parliament. He can send back a Bill for the reconsideration of the Parliament, except money bills. His prior permission is required for introducing the bills in Parliament relating to the creation of new States or alteration of boundaries of the existing States. He appoints the provisional presiding officers of the two Houses. He sends the annual reports of Union Public Service Commission, Comptroller and Auditor General of India for the consideration and approval of the Parliament.

3. Financial Powers

The President ensures that the Annual financial Statement (budget) of the Union Government is laid before the Parliament. No money Bill can be introduced in the Parliament without his consent. He can make advances out of the Contingency Fund of India to meet any unforeseen expenditure. He determines the share of the States in the proceeds of income tax. He appoints the Chairman and members of the Finance Commission for every five years. He sees that the reports of the Finance Commission and Comptroller and Auditor General of India are placed before the Parliament.

4. Judicial Powers

The President shall exercise the Judicial powers on the advice of the Union Government. Exercise of these powers by the President is not open to Judicial Review, except to the limited extent. The court can interfere only where the Presidential decision is wholly irrelevant to the object of Article 72.

The Judicial powers of the President are as follows:

- I. He appoints the Chief Justice and the other Judges of Supreme Court and High Courts.
- II. He can seek advice from the Supreme Court on any question of law or fact. But, the advice given by the Supreme Court is not binding on the President.
- III. He can grant pardon, reprieve, respite, remission of punishment and commute of any offence.
- IV. In all cases of punishment by a Court Martial.
- V. In all cases where the punishment is for any offence against a union law.
- VI. The only authority for pardoning a sentence of death is the President.

5. Military Powers

The President of India is the supreme commander of the defence forces (Army, Navy and Air Force) of in our country. In that capacity he appoints Chiefs of the Army, the Navy and the Air Force. He can declare war or conclude peace subject to the approval of the Parliament.

6. Diplomatic Powers

The President appoints the Ambassadors and other diplomatic personnel abroad. He receives the credentials of Ambassadors of other states appointed in India. He represents the Nation in international forums. International treaties and agreements are negotiated and concluded on behalf of the President. However, they are subject to the approval of the Parliament.

B. Emergency Powers

In addition to the normal powers, mentioned above, the Constitution confers extraordinary powers on the President to deal with the following types of emergencies. They are:

- i. National Emergency (Article 352)
- ii. Constitutional Emergency or President's Rule (Article 356)
- iii. Financial Emergency. (Article 360)

They may be explained as follows:

1. National Emergency (Article 352)

The President exercises this power during the period of war, external aggression or armed rebellion. He declares Emergency if he is satisfied that the sovereignty and security of India or any part thereof is threatened by external aggression. The 44th Constitutional Amendment Act, 1978 made it clear that the President shall act only on the written advice of the Union Council of Ministers headed by the Prime Minister. The Parliament shall approve the proclamation of Emergency by a majority of votes not less than 2/3rd members present and voting in each House within a month. Otherwise, the President's proclamation ceases to operate. The Emergency proclamation shall be in force for six months. The President can extend the proclamation for another six months with the approval of the Parliament. However, the President can, by a resolution, revoke the proclamation at any time with simple majority in the two Houses. Such a resolution shall be submitted by 1/10th of the members to the Speaker with a prior notice of 14 days.

When the National Emergency is in force, the federal provision of our Constitution ceases to operate. So far, the national Emergency was proclaimed on four occasions in our country. They are:

1. Chinese Aggression (1962)
2. Indo – Pak war, (1965)

3. Indo – Pak war in the context of Bangladesh Liberation movement (1971).
4. Oppositions call for blocking Parliament (1975)

While the first three instances relate to the external Emergency, the last one refers to internal Emergency.

Effects of National Emergency

The declaration of National Emergency has effects both on the rights of individuals and the autonomy of the States in the following manner:

- o The most significant effect is that the Federal form of the Constitution changes into Unitary. The authority of the Union Government increases and Parliament assumes the power to make laws for the entire country or any part thereof, even in respect of subjects mentioned in the State list.

The Fundamental Rights except Article 20 and 21 are automatically suspended.

2. Constitutional Emergency (Article 356)

Article 356 of Indian Constitution empowers the President to proclaim the Constitutional Emergency. If the President is satisfied on the basis of the report of the Governor of the concerned State or from other source that the Governance in a State cannot be carried out according to the provisions in the Constitution, he can declare a State of Emergency in the State. It is also called as the President's rule.

The breakdown of the Constitutional machinery may take place either as a result of a political deadlock or the failure by a State to carry out the directions of the Union. The Parliament shall approve the Emergency proclamation by the President within a period of two months. It can be imposed for six months to a maximum period of three years with repeated Parliamentary approval every six months. In any case during the period, if the House of People is dissolved, the Council of States shall approve such proclamation within a month from the date of its first meeting. So far this type of Emergency was proclaimed for 124 times in India.

The following changes shall take place during the period of Constitutional Emergency.

1. The President may himself exercise all or any of the functions of the State Government. He may entrust all or any of those functions to the Governor or to any executive authority.
2. The President may declare that the powers of the State Legislature shall be exercised by the Parliament.

3. The President may make any other provisions necessary to give effect to the objects of the proclamation. However, he cannot assume himself any of the powers of the High Court.

3. Financial Emergency (Article 360)

Under Article 360 of the Constitution, President can proclaim Financial Emergency when the financial stability or credit of the nation or of any part of its territory is threatened. Such an Emergency must be approved by the Parliament within two months by simple majority. So far this type of Emergency has not been proclaimed in our country. During the Financial Emergency, the President can reduce the salaries of all government officials, including judges of the Supreme Court and High Court. All money bills passed by the State Legislatures should be submitted to the President's for approval. He can direct the States to observe certain economy measures relating to financial matters.

3.2.7 Role and Constitutional position of Indian President

Our Constitution adopted the British Parliamentary system and consequently the President has been made only a nominal executive head of the Indian Union. He is, like the British King or Queen, has the powers to warn, to encourage and to consult the Union Council of Minister headed by the Prime Minister. A lot of discussion took place during and after the making of the Constitution with regard to the role and Constitutional position of the President. Eminent leaders like Jawaharlal Nehru, Dr.B.R. Ambedkar and others viewed that the Indian President is head of the State but not of executive, therefore, he is a figurative head of the State. On the other hand, prominent leaders like Rajendra Prasad, K.M. Munshi and others Stated that the President has some discretionary powers independent of the Union Council of Ministers. The supporters of Presidential powers argued that the President exercises independent powers as he assumes office by swearing that he will preserve, protect and defend the Constitution and the law and that he will devote himself to the service and wellbeing of the people of India.

It is true that the President exercise his discretionary powers in the context of selecting and inviting the leader of the majority party or coalition in the House of People as Prime Minister for forming the government. The President's power of either accepting or ignoring the Prime Minister's advice for dissolving the House of People is unquestionable. Especially his role and position remains significant and strategic during political crises at national level. He has to see that a viable, workable and efficient Government is established at the centre. The President becomes virtually powerful when the Council of Ministers fails to function and when the Constitutional machinery gets out of control. For instance, President K.R. Narayanan refused the advice of the United

Front Government in October, 1997 for dismissing Kalyan Singh's government in Uttar Pradesh and for imposing President's Rule. Instead he asked the Union Government to withdraw such a proposal. Similarly, he refused the United Front cabinets suggestion for dismissing the R.J.D. Government in Bihar and imposing President's Rule. K.R. Narayanan has discharged his duties as an active President on the following occasions by disagreeing on the policies of Union Government.

- i) Appointment of Supreme Court Judges.
- ii) Ignoring opposition's demand for a debate in Rajya Sabha on Kargil war.
- iii) Bypassing the customary Presidential address on the eve of 1998 Independence Day by initiating dialogue instead of addressing the nation over Radio and Television.
- iv) The new telecommunication policy.
- v) Announcing Rs. 125 crores package for bailing out the Indian Air Lines from incurring losses etc.

He exercised his franchise in the 12th Lok Sabha elections (1998) and bade goodbye to the customary role of the President keeping away from polls. He was the first Indian President who cast vote in the Parliamentary elections. President R. Venkataraman, in his autobiography "My Presidential Years" pointed out that the President acts as 'an Emergency lamp' in times of crisis.

President Shanker Dayal Sharma at his farewell function, described that the President shall be guided by the principles of impartiality, Constitutional propriety and transparency. He further Stated that the President must have an approach of impartial rule book to be followed at different situations. Though the President has no Constitutional discretion, he has some situational discretion. In other words, the President can act on his discretion under the following situations:

- a. Appointment of Prime Minister when no party has a clear majority in the Lok Sabha or when the Prime Minister in office dies suddenly and there is no obvious successor.
- b. Dismissal of the Council of Ministers when it cannot prove the confidence of Lok Sabha.
- c. Dissolution of Lok Sabha if the Council of Ministers has lost its majority.

3.3 The Vice-President of India

The Vice-President of India occupies the second highest position in the union government. He is accorded a rank next to the President. This office is modeled on the lines of the American Vice-President. Articles 63 to 71 in Part V of the Indian Constitution deal with the provisions relating to the composition, powers and functions of the Vice-President of India. Article 63 States that there shall be a Vice-President of India.

3.3.1 Qualifications

A person to be eligible for election as Vice-President should possess the following qualifications.

1. He should be a citizen of India.
2. He should have completed 35 years of age.
3. He should be qualified for election as a member of the Council of States.
4. He should not hold any office of profit under the Union, State or Local Governments in India.

3.3.2 Election

The election of the Vice-President like that of the President shall be indirect and in accordance with the system of proportional representation by means of the single transferable vote system. He is elected by the members of an **electoral college** consisting of the members of both the Houses of Parliament. This Electoral College is different from the Electoral College for the election of the President in the following two respects;

1. It consists of both elected and nominated members of the Parliament
2. It does not include the members of the State Legislative Assemblies

3.3.3 Term of Office

The Vice-President holds office for a term of 5 years from the date on which he enters his office. However the office may be terminated earlier either by resignation or by removal. The Vice-President is constitutionally entitled to resign by signing under his own hand and seal addressed to the President of India. The office of the Vice-President remains vacant due to the death or removal by the Parliament. The Constitution does not provide a mechanism of succession to the office of the Vice-President. Under such circumstances, election to the Vice-Presidency shall be held as early as possible. Till then the Deputy Chairman of the Rajya Sabha can perform the duties of the Chairman of Rajya Sabha.

Succession list of the Vice-Presidents of India (1952 – 2015)

S.No.	Name of the Vice- President	Tenure
1	Dr. Sarvepalli Radha Krishnan	1952-1962
2	Dr. Zakir Hussain	1962-1967
3	Varahagiri Venkatagiri	1967-1969
4	Gopal Swarup Pathak	1969-1974
5	Basappa Danappa Jatti	1974-1979
6	Mohammad Hidayatullah	1979-1984
7	Ramaswamy Venkataraman	1984-1987
8	Dr. Shakar Dayal Sharma	1987-1992
9	Kochairil Raman Narayanan	1992-1997
10	Krishan Kant	1997-2002
11	Bhairon Singh Shekhawat	2002-2007
12	Mohammed Hameed Ansari	2007- Till date

3.3.4. Removal

The Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the council and agreed to by the House of the People. A resolution for this purpose may be moved only after a notice of at least a minimum of 14 days has been given of such an intention.

3.3.5 Salary and Allowances

The Vice-President of India receives a monthly salary of Rs. 1,25,000/- in addition, he is entitled to daily allowance, free furnished residence, medical, travel and other facilities.

3.3.6 Powers and Functions of the Vice-President

The powers and functions of Vice- President are twofold. They are

1. Ex-officio Chairman of the Rajya Sabha

The Vice-President is the ex-officio Chairman of the Rajya Sabha. He presides over the meetings of the Rajya Sabha. He conducts the meetings of the Rajya Sabha with dignity, decency and decorum. He gives rulings in the meetings and allows the

members to express their views on different bills and issues. He conducts voting on the bills and announces the results. He sends all those bills accepted by the Rajya Sabha to the Lok Sabha with his signature. He safeguards the privileges and amenities of the members of Rajya Sabha. He exercises almost all powers as that of the Lok Sabha Speaker. However, he has no power to sign on the money bills and to preside over the joint sitting of the Parliament. He exercises his casting vote in case the members are divided into two equal halves. But normally he does not exercise his vote on resolutions, as he is not a member of the Rajya Sabha.

2. Acting as the President

The Vice-President acts as the President in the event of a vacancy by reason of death, resignation, removal or otherwise. The Vice-President acts as the President for a period of not exceeding six months. However, he exercises the powers of the President until the date on which the new President assumes the office. Similarly, the Vice-President shall discharge the functions of the President during the temporary absence of the President, illness or any other case by reason of which he is unable to discharge his functions. When the Vice-President discharges the functions of the President, he shall be eligible to all the benefits and immunities of the President. He is entitled to such salary, allowances and privileges as determined by the Parliament from time to time.

3.3.7 Position of the Vice-President

The office of the Vice-President carries a great status and dignity. His position is compared to that of the Vice-President of the United States as both of them acts as the Chairmen of the Upper Houses in their respective States. The Vice-President serves as an able negotiator and conciliator at the time of troubled atmosphere between the States of the world. Pandit Jawaharlal Nehru, our first Prime Minister, utilized the services of Dr. Radha Krishnan, the first Vice-President for promoting harmonious relations between India and Soviet Union. Vice- Presidents like Zakir Hussain, V.V. Giri, R. Venkataraman, Sankar Dayal Sharma and K.R. Narayanan discharged their responsibilities efficiently and honestly and won the appreciation of one and all. Later, they were elected as the Presidents. Dr. Radha Krishnan, our first Vice-President, continued in the office for two terms. At present Vice – President Mohammed Hameed Ansari has been continuing in the office for the second term.

3.4 The Prime Minister of India

The Prime Minister is the most important and powerful executive in the union government. He, as the head of the Union Council of Ministers, exercises enormous powers in the Union Government. The President is the Constitutional head of the State, but the real head of the Government is the Prime Minister. The Prime Minister is described as the “key stone of the cabinet arch”, “the sun around which the planets revolve”, “moon among the stars” and “first among the equals”. The Prime Minister is central to the formation, working and death of the government.

Article 74 (1) of the Indian Constitution clarifies that there shall be a Council of Ministers with the Prime Minister at the head to aid and advice the President in the exercise of his functions. Article 75 (1) of the Indian Constitution deals with the appointment of the Prime Minister of India, Here the word “shall” indicates that the President cannot function without the advice of the Council of Ministers headed by the Prime Minister.

3.4.1 Appointment

The Constitution simply lays down that ‘the Prime Minister shall be appointed by the President’. After the conduct of General Elections to the Lok Sabha, the President has to invite the majority party leader of the Lok Sabha to form the Government. When no single party is able to secure majority seats in Lok Sabha, the President invites the leader of a coalition to form the Government. The President uses his discretionary powers in this regard. The President appoints the leader of the coalition as the Prime Minister on the condition that he has to prove his majority in the Lok Sabha within a specified period. Besides being the leader of the majority in Lok Sabha, to be the Prime Minister, the person has to be a member of Parliament. If he is not a member at the time of appointment, he has to acquire it within six months from the date of his appointment as Prime Minister.

The powers of the President in choosing, inviting and appointing the Prime Minister cannot be questioned in any court of law.

3.4.2 Oath of the Prime Minister

Before the Prime Minister enters his office, the President administers to him the oath of office and secrecy. In his oath of secrecy the Prime Minister swears that he will not directly or indirectly communicate or reveal any person (s) any matter that is brought under his consideration or become known to him as a union minister except as may be required for the due discharge of his duties as such minister.

3.4.3 Term and Salary

The term of Prime Minister is not fixed and holds office during the pleasure of the President. However, this does not mean that the President can dismiss the Prime Minister at any time. So long as the Prime Minister enjoys the majority support in the Lok Sabha he cannot be dismissed by the President. However, if loses the confidence of the Lok Sabha, he must resign or the President can dismiss him.

The salary and allowances of Prime Minister are decided by the Parliament from time to time. He gets his salary and allowances that are payable to a Member of Parliament. At present the Prime Minister gets a salary and allowances of Rs. 1,60,000/- per month.

Succession list of the Prime Ministers of India

S.No.	Name of the Prime Minister	Party	Tenure	
			From	To
1	Jawaharlal Nehru	INC	15.08.1947	27.05.1964
2	Guljari Lal Nanda (Acting)	INC	27.05.1964	09.06.1964
3	Lal Bahadur Sastri	INC	09.06.1964	11.01.1966
4	Guljari Lal Nanda (Acting)	INC	11.01.1966	24.01.1966
5	Mrs.Indira Gandhi	INC	24.01.1966	24.03.1977
6	Morarji Desai	Janata Party	24.03.1977	28.07.1979
7	Charan Singh	Janata Party	28.07.1979	14.01.1980
8	Mrs.Indira Gandhi	INC	14.01.1980	31.10.1984
9	Rajiv Gandhi	INC	31.10.1984	02.12.1989
10	V.P. Singh	Janata Dal	02.12.1989	10.11.1990
11	Chandra Sekhar	Samajwadi Janata Party	10.11.1990	21.06.1991
12	P.V. Narasimha Rao	INC	21.06.1991	16.05.1996
13	A.B. Vajpayee	BJP	16.05.1996	01.06.1996
14	H.D. Deve Gowda	J.D.	01.06.1996	21.04.1997
15	I.K. Gujral	J.D.	21.04.1997	19.03.1998
16	A.B. Vajpayee	BJP	19.03.1998	22.05.2004
17	Dr.Manmohan Singh	INC	22.05.2004	26.05.2014
18	Narendra Damodardas Modi	BJP	26.05.2014	Till date

3.4.4 Powers and Functions of the Prime Minister

The Prime Minister is the head of the Union Government. He is the real executive. The Council of Ministers cannot exist without the Prime Minister. He is the most important and powerful functionary of the Union Government. However, the power of the Prime Minister depends upon the prevailing political conditions. The position of the Prime Minister and Council of Ministers has been unassailable, powerful and very strong, whenever a single political party secured majority in the Lok Sabha. Whereas in coalition Government the Prime Minister's position is weak, dependent and unarmed. The Prime Minister is, according to Jawaharlal Nehru "The linchpin of the Government." He plays a decisive and dignified role in the political, administrative, legislative and diplomatic affairs of the nation. His powers are explained here under;

1. *Leader of the Union Cabinet*

The Prime Minister is the leader of the union cabinet and Union Council of Ministers. He selects some eminent members of his party or coalition members in Parliament and see that they are appointed as Ministers by the President. He has a free choice of both allocating portfolios and reshuffling the Ministry. All the Ministers are personally and politically loyal to the Prime Minister. He decides the agenda of the cabinet meetings. Further, he presides over the cabinet meetings.

2. *Leader of the Union Government*

The Prime Minister acts as the leader of the Union Government. The union executive (Union Council of Ministers) initiates its business after the swearing in ceremony of the Prime Minister. All the Ministers in the union ministry assume their office, owe their position and exercise their powers along with the Prime Minister. In fact, the Prime Minister influences the nature and working of the Union Government. He, not only has a clear understanding but holds complete control over the affairs of the Union Government. All the high level officers and the entire Ministry in the Union Government behave and act according to the wishes of the Prime Minister.

3. *Leader of the Parliament*

The Prime Minister acts as the leader of the Parliament. He is primarily a member of Parliament and extends cooperation to the presiding officers in the smooth conduct of the both houses. He wields complete control over his party members in the Parliament. He ensures that his party members maintain discipline during the sessions of the Parliament. He inform out the cabinet decisions to the Parliament. He communicates the major domestic and foreign policies of the Union Government

to the members of Parliament. He announces government policies on the floor of the House. He maintains rapport with the opposition leaders and discuss the major issues confronted by the nation with them.

4. Link between the President and the Council of Ministers

The Prime Minister acts as the main link between the President and the Union Council of Ministers. It is his duty to communicate to the President about the decisions of the Union Council of Ministers. He furnishes every information required by the President concerning the affairs of Union Government. All the Ministers shall formally meet the President only with the consent of the Prime Minister. He advises the President with regard to the appointment of important officials like Attorney General of India, Comptroller and Auditor General of India, Chairman and Members of UPSC, Election Commission members, Chairman and members of Finance Commission and so on.

5. Leader of the Majority Party

The Prime Minister acts as the leader of the majority party or group in the Lower House of Parliament. He participates in the meetings of the party and acquaints his party members on various issues and steps taken by his ministry in implementing the party promises. He utilizes the services of the senior party leaders in running the government. He acts as the main link between the party and the Government.

6. Leader of the Nation

The Prime Minister acts as the leader of the nation. Being the leader of the Lok Sabha and that the Lok Sabha represents public opinion, his views are treated as the views of the Nation as a whole. His Statements in and outside of the Parliament are of great significance. He plays a key role in influencing the public opinion.

7. Determines the Foreign Policy

The Prime Minister always plays a key role in determining the foreign policy of the country and India's relation with other countries. He is mainly responsible for country's prestige and participation in international relations. He represents the country in all important international conferences.

8. Chairman of NITI Aayog

The Prime Minister heads the NITI Aayog (National Institution for Transforming India). NITI Aayog means policy commission. It is a policy think tank of Government

of India that replaces Planning Commission which aims to involve the States in economic policy making in India. It will provide strategic and technical advice to the Central and State Governments. It will have a governing council comprising Chief Ministers of all the States and Lt. Governors of Union Territories. Union Government set up the NITI Aayog on January 1, 2015.

3.4.5 Prime Minister's Office (PMO)

The Prime Minister has his own office namely Prime Minister's Office (PMO). It provides secretarial assistance to the Prime Minister. It is headed by the Principle Secretary to the Prime Minister. The very nature of power, responsibilities and role in present day Governance makes the Prime Minister's Office a parallel Government. The PMO monitors about 18 flagship programmes of Union Government including National Rural Employment Guarantee Act and National Rural Health Mission etc. The PMO explores new ideas and promotes innovative thinking without compromising on national interests. It comprises three Ministers of State rank, Principal Secretary, National Security Advisor and a Political Secretary besides many key officials. The Principal Secretary acts as the Prime Minister's crisis manager. He executes the ideas, plans and vision of the Prime Minister.

3.4.6 Role and Position of the Prime Minister

The Prime Minister plays a predominant role in the affairs of the Union Government. He will have an indelible impression on everyone in the administration of the Union Government. He is the head of the government and real executive authority. He performs many significant roles and functions in the Indian political system and exercises vast powers. His role as the leader of the Union Council of Ministers, leader of the majority party, leader of the nation is unique. He enjoys enormous powers and fulfils innumerable tasks. It all depends on the image, influence, stature and personality of the Prime Minister. It is in this context that Sir William Harcourt remarked that "everyone expects from the Prime Minister dignity and authority, firmness to control, tact, impartial mind, a tolerant temper, a kind and prudent counsellorship and accessibility to the people".

3.5 Union Council of Ministers

The Constitution of India provides for a Parliamentary System of Government modeled on the British pattern. So the Council of Ministers headed by Prime Minister is the real executive authority in our politico-administrative system. Article 74 and 75 of the Indian Constitution deal with the composition, powers and functions of the Union Council of Ministers. Article 74 deals with the status of Council of Ministers. Article 75 States that the Union

Council of Ministers shall be collectively responsible to the House of the People. The Union Council of Ministers is a collective body consisting of different categories of Ministers in the union executive. It is headed by the Prime Minister.

3.5.1 Composition

The Union Council of Ministers consist of three categories of ministers, namely:

- i. Cabinet Ministers.
- ii. Ministers of State (Independent charge)
- iii. Deputy Ministers (Ministers of State without independent charge)

i. Cabinet Ministiers

The Cabinet Ministers act as the heads of important Ministries like Home Affairs, Finance, Defence, Railways, Foreign Affairs, Human Resource Development, Information Technology, Urban Development, Civil Aviation, Mines and Steel etc. in the Union Government. They enjoy independence in arriving at and implementing decisions concerning their ministry. They play a decisive role in the meeting of Union Council of Minister and the Union Cabinet. They act as close aide to the Prime Minister in analyzing and arriving at decisions on various issues of national and international importance. They meet frequently and determine the policies of the Union Government in the name of the President and under the guidance of the Prime Minister.

ii. Ministers of State (Independent Charge)

The Ministers of State with independent charge hold some portfolios in the Union Executive with direct answerability to the Prime Minister. They do not have Cabinet Ministers superior to them in the Ministry. Minister of State with independent charge has power to take decision in the Ministry independently and report directly to the Prime Minister. They can attend cabinet meeting only if invited in case of important issue.

iii. Deputy Ministers (Ministers of State without Independent Charge)

The Ministers of State without independent charge also called as Deputy Ministers or Minister of State. These ministers assist the Cabinet Ministers in the administrative and legislative affairs of the Union Government. They do not possess authority of decision making. They need to consult with their respective Cabinet Minister in day to day functioning of the Ministry. They are not called to the Cabinet meetings.

At present there are 26 Cabinet Ministers, 13 Ministers of State with independent charge, and 25 Ministers of State totaling 65 including the Prime Minister in the NDA Coalition headed by Narendra Modi.

CENTRAL COUNCIL OF MINISTERS

(as on 05.06.2015)

Shri. Narendra Damodardas Modi	:	➤ Prime Minister
		➤ In Charge of Department of Space and all important policy issues and all other Portfolios not allocated to any Minister.

Cabinet Ministers

1. Raj Nath Singh	:	➤ Home Affairs
2. Smt Sushma Swaraj	:	➤ External Affairs ➤ Overseas Indian Affairs.
3. Arun Jaitley	:	➤ Finance ➤ Corporate Affairs ➤ Information and Broadcasting.
4. M. Venkaiah Naidu	:	➤ Urban Development ➤ Housing and Urban Poverty Alleviation Parliamentary Affairs.
5. Nitin Jariam Gadkari	:	➤ Road Transport and Highways ➤ Shipping
6. Manohar Parrikar	:	Defence
7. Suresh Prabhu	:	Railways
8. D.V.Sadananda Gowda	:	Law and Justice
9. Sushri Lima Bharathi	:	Water Resources, River Development and Ganga Rejuvenation
10. Dr. Najma A. Heptulla	:	Minority Affairs.
11. Ramvilas Paswan	:	Consumer Affairs, Food and Public Distribution
12. Kalraj Mishra	:	Micro, Small and Medium Enterprises.
13. Smt Maneka Sanjay Gandhi	:	Women and Child Development.
14. Ananth Kumar	:	Chemicals and Fertilizers
15. Ravi Shankar Prasad	:	Communications and Information Technology.
16. Jagat Prakash Nadda	:	Health and Family Welfare
17. Ashok Gajapathi Raju Puspatti	:	Civil Aviation

18. Anant Geete	:	Heavy Industries and Public Enterprises.
19. Smt. Harsimrat Kaur Badal	:	Food Processing Industries
20. Narendra Singh Tomar	:	➤ Mines & Steel
21. Chaudhari Birender Singh	:	➤ Rural Development ➤ Panchayati Raj ➤ Drinking water and Sanitation
22. Jual Oram	:	Tribal Affairs
23. Radha Mohan Singh	:	Agriculture
24. Thaswar Chand Gehlor	:	Social Justice and Development
25. Smt Smriti Zubin Irani	:	Human Resource Development
26. Dr harsh Vardhan	:	➤ Science and Technology ➤ Earth Sciences.

Ministers of State (Independent Charge)

1. General (Retd) V.K.Singh	:	➤ Statistics and Programme Implementation ➤ External Affairs ➤ Overseas Indian Affairs.
2. Rao Inderjit Singh	:	➤ Planning ➤ Defence.
3. Santhosh Kumar Gangwar	:	Textiles
4. Bandaru Dattareya	:	Labour and Employment.
5. Rajiv Pratap Rudy	:	➤ Skill Development and Entrepreneurship ➤ Parliamentary Affairs.
6. Shripad Yesso Naik	:	➤ Ayurveda, Yoga and Naturopathy, Unani, Siddha ➤ Homoeopathy (AYUSH) ; and ➤ Health and Family Welfare.
7. Dharmendra Pradhan	:	Petroleum and Natural Gas
8. Sarbananda Sonowal	:	Youth Affairs and Sports
9. Prakash Javadekar	:	Environment, Forest and Climate Change.
10. Piyush Goyal	:	➤ Power ➤ Coal ➤ New and Renewable Energy.

- | | | |
|-----------------------------------|---|--|
| 11. Dr Jitendra Singh | : | ➤ Development of North Eastern Region
➤ The Prime Ministers' Office
➤ Personnel, Public Grievances and Pensions
➤ Atomic Energy
➤ Department of Space. |
| 12. Smt Nirmala Sitharaman | : | Commerce and Industry |
| 13. Dr Mahesh Sharma | : | ➤ Culture
➤ Tourism
➤ Civil Aviation |

Ministers of State (Without Independent Charge)

- | | | |
|--|---|---|
| 1. Mukhtar Abbas Naqvi | : | ➤ Minority Affairs
➤ Parliamentary Affairs. |
| 2. Ram Kripal Yadav | : | Drinking Water and Sanitation |
| 3. Haribhai Parthibhai Chaudhry | : | Home Affairs |
| 4. Sanwar Lai Jat | : | Water Resources, River Development and Ganga Rejuvenation |
| 5. Mohanbhai Kalyanjibhai Kundariya | : | Ministry of Agriculture |
| 6. Girija Singh | : | Micro, Small and Medium Enterprises. |
| 7. Hansraj Gangaram Ahir | : | Chemicals and Fertilizers |
| 8. G.M. Siddeshwara | : | Heavy Industries and Public Enterprises. |
| 9. Manoj Sinha | : | Railways |
| 10. Nihalchand | : | Panchayati Raj . |
| 11. Upendra Kushwaha | : | Human Resources Development |
| 12. Radhakrishnan.P | : | ➤ Road Transport and Highways
➤ Shipping |
| 13. Kiren Rijiju | : | ➤ Home Affairs |

3.5.2 Qualifications

The persons to be appointed as Ministers must possess the following qualifications.

1. He must be a member of Parliament either of Lok Sabha or Rajya Sabha
2. If they are not members of the Parliament, they should be elected or nominated to either House of the Parliament within six months from the date of assuming of their office.

3.5.3 Appointment

The Union Council of Ministers are appointed by the President on the recommendation and advice of the Prime Minister. This means that the President can appoint only those persons as Ministers who are recommended by the Prime Minister. Normally the Prime Minister chooses some members of his party in the Parliament as his team of Ministers. In a Coalition Government the Prime Minister has to share power with like minded parties. He has to allocate some seats in the Ministry to the coalition partners. All the Ministers assume their powers and continue in the office under the leadership of the Prime Minister. They follow the foot prints of the Prime Minister in all matters.

3.5.4 Tenure

The Indian Constitution did not mention the exact tenure of the members of the Union Council of Ministers. Article 75 (2) stipulates that the Ministers shall hold office during the pleasure of the President. At the same time Article 75 (3) States that the Union Council of Ministers shall be collectively responsible to the House of the People. These two Articles imply that the Minister continue in office under two conditions, namely; 1) Pleasure of the Presidents and 2) Confidence of the Majority members in the House of the People. Which really means so long as they enjoy the confidence of the majority of Lok Sabha or the confidence of the Prime Minister.

The number of members of the Council of Ministers is not specified in the Constitution. It is determined according to the exigencies of the time and requirements of the situation. But this leads to very large size of the Council of Ministers. Therefore, the constitution (Ninty First Amendment) Act, 2003 was made to Article 75 by inserting sub-clause (1A), which provides that the total number of Ministers, including the Prime Minister shall not exceed 15% of the total number of the members of the House of the People.

3.5.5 Union Cabinet

The word ‘Council of Ministers’ and ‘Cabinet’ are often used as inter-changeable words. In reality there is a definite distinction between them. The Council of Ministers consists of all category of Ministers. It is a wider body. The Cabinet on the other hand consists of senior Ministers only. The Cabinet is ‘smaller body’ within the Council of Minister which shapes the

policy of the Government. The Prime Minister selects those persons possessing political experience, popularity, administrative efficiency, legal and Constitutional knowledge as the Cabinet Ministers. Normally, major portfolios like Defence, External Affairs, Home Affairs, Finance, Human Resource Development, Railway, Information Technology etc. are held by the Cabinet Ministers.

The Cabinet Ministers meet once in a week or earlier if the situation warrants. The Cabinet Secretary formulates the agenda of the cabinet meetings in consultation with the Prime Minister. The Prime Minister presides over the cabinet meetings. There is no time limit for discussions in the cabinet meetings. The Ministers exchange their views among themselves freely and without inhibitions. They act as a unit or team in facing any situation in the Parliament, with the people and the press etc.

Following are the functions of union cabinet on the basis of below mentioned principles.

1. The cabinet functions under the leadership of the Prime Minister.
2. It is collectively responsible to the lower House of the Parliament.
3. It strictly maintains secrecy on all decisions.
4. It normally comprises one party or a few parties in the coalition on some occasions.
5. It enjoys the support of majority members in the Lower House of Parliament.

3.5.6 Powers and Functions of the Union Cabinet

The Union Cabinet performs the following functions :

1. The Union Cabinet formulates the policies of the Union Government. It finalizes the domestic as well as foreign policies of the nation after having serious deliberations.
2. It renders advice to the President on all matters of the Union Government. It guides the President in the exercise of his functions.
3. When Parliament is not in session and when there is an imminent necessity to enact a law, the Union Cabinet on apprising the situation to the President, causes the issue of ordinances.
4. It formulates the annual budget proceeded by hectic discussions at various levels and finally at national level and introduces the same in the Parliament on the advice of the President.
5. It takes decisions for rescuing the people affected during natural calamities like earthquake, flood, famine, cyclone etc.
6. It pilots several bills in the Parliament at various stages and strives to secure the approval of the latter.

3.5.7 Role of the Union Cabinet

The Union Cabinet plays an active and crucial role in the matters of decision-making and its implementation in the Union Government. It is the highest decision-making political body deciding the executive action at the national level. In fact, all functions of the Union Council of Ministers are the functions of the Union Cabinet. It exercises complete control over the executive and administrative personnel of the Union Government. It is the chief policy formulation body of the Central Government. It serves as a link between the union executive and the union legislature. It is the chief coordinator of central administration. It is an advisory body to the President. It deals with all legislative and financial matters. It also deals with the foreign policies and foreign affairs.

Sir John Marriott described “the British Cabinet is the pivot around which the whole political machinery revolves”. *Ramsay Muir* Stated that “the cabinet is the steering wheel of the ship of the State.” *Prof. Barker* said that “the cabinet is the magnet of policy.”

3.5.8 Collective Responsibility

Collective responsibility is an important feature of the Parliamentary System of Government. Article 75 (3) of the Indian Constitution clearly Stated that “The Council of Ministers shall be collectively responsible to the House of the People. The Union Council of Ministers work as a team, swim or sink together.

Collective responsibility implies owing responsibility for every action initiated and carried out by the Ministers (Executive) to the Legislature (Parliament). Every Minister is answerable to the Parliament for the lapses occurred in his Ministry. He is individually responsible for the implications of his decisions.

Collective responsibility binds the Ministers together and keeps them united. The Cabinet decisions bind all Ministers, even if they differed in the cabinet meetings. It is the duty of every Minister to stand by cabinet decisions and support them both within and outside the Parliament. If any Minister disagrees with a cabinet decision and is not prepared to defend it, he must resign. Several Ministers have resigned in the past owing to their differences with the cabinet. For example Dr. B.R. Ambedkar resigned because of his differences with his colleagues on the Hindu Code Bill in 1953. C.D. Deshmukh resigned due to his differences on the policy of reorganization of States in 1956. Arif Mohammed resigned due to his opposition to the Muslim Women (Protection of Right on Divorce) Act 1986.

The principle of collective responsibility is practiced through different ways. The Legislature (Parliament) may discuss and adopt no- confidence resolution against the Executive (Ministry). If the Legislature adopts such a resolution, the Executive (Ministry) ceases to

continue in power. Sometimes the executive (Ministry) itself may seek the confidence of the Legislature (Parliament) on the working pattern of the former. For example Prime Minister Charan Singh was asked by the President N. Sanjiva Reddy in 1979 to obtain the confidence of the Lok Sabha. But Charan Singh resigned earlier. When the AIADMK had announced its withdrawal from NDA Government on April 14, 1999, Prime Minister A.B. Vajpayee moved a confidence resolution in the Lok Sabha and consequent to its defeat he submitted his resignation on April 17, 1999.

One the whole, the principle of collective responsibility is confined to the Union Council of Ministers and the House of People in practice. Collective responsibility enables both the party in power and the opposition in the Lower House of Parliament to prove their efficiency and to convey their views to the people through the print and electronic media. It enables the Ministry to work with unity, accountability, harmony and understanding.

Summary

This chapter furnishes vital information regarding Union Government. It enables the students to understand the crucial role of union executive in the maintenance of Union Government affairs. Besides, the student acquires a good knowledge about the Union Cabinet which comprises the heart of all Union Government policies and programmes. The Union Cabinet led by the Prime Minister guides the President in the announcement of his decisions and directives. Public Bills introduced by the Cabinet Ministers in parliament will form the symbol of government policies in Indian political administration.

A close study of this chapter makes the student realize that the President is the savior of Indian Constitution and Independent Republic. The union cabinet and the union Council of Ministers implement the policies and programmes of the Union Government in the name of the President. He will understand that the Prime Minister and his team of Ministers, appointed by the President, influence and guide the latter in course of time in the affairs of Union Government. At the same time they (the Prime Minister as well as the Ministers) are individually, jointly and collectively responsible for their policies and programmes to the Lok Sabha.

Another interesting aspect which the student come across in this chapter is that our Constitution did not assign crucial powers to the Vice-President. However, the Vice-President will be able to indirectly influence the legislative proceedings of various Bills introduced in the Rajya Sabha.

On the whole a detailed study of this chapter helps the student to understand clearly the powers and functions of top Constitutional functionaries (the President, the Vice-President, the Prime Minister and the Union Council of Ministers) and how they influence and regulate the affairs of Union Government.

QUESTIONS

I. Long Answer Questions

1. Explain the powers and functions of the President of India.
2. Write briefly the Emergency powers of the President of India.
3. Discuss the powers and functions of the Prime Minister of India.
4. Explain the composition, powers and functions of the Union Council of Ministers.

II. Short Answer Questions

1. How is the President of India elected?
2. Write briefly about the procedure of impeachment of President.
3. Mention any two Emergency Powers of the Indian President.
4. Explain the role and position of the President in Union Government.
5. Write about any two powers of the Vice-President of India.
6. How is the Prime Minister appointed?
7. Explain the role of the Prime Minister in Union Government.
8. Describe the Composition and powers of the Union Council of Ministers.

III. Very Short Answer Questions

1. Composition of the Union Executive.
2. Qualifications required for contesting the Presidential elections
3. Election of President.
4. Important appointments of President.
5. Judicial powers of the President.
6. Article 352
7. Article 356.
8. Financial Emergency
9. National Emergency
10. Qualifications required for contesting as Vice-President.
11. Chairman of Rajya Sabha
12. Appointment of Prime Minister
13. Categories of Union Council of Ministers
14. Any two functions of the Union Cabinet.
15. Collective Responsibility

CHAPTER 4



Union Legislature

- 4.0 Introduction
- 4.1 Union Legislature (Parliament)
- 4.2 Unique features of Union Legislature
- 4.3 Lok Sabha
- 4.4 The Speaker of the Lok Sabha
- 4.5 Rajya Sabha
- 4.6 Chairman of Rajya Sabha
- 4.7 Powers and Functions of Union Legislature (Indian Parliament)
- 4.8 Types of Bills in Parliament
- 4.9 Law Making Procedure in Parliament
- 4.10 Important Matters in Parliament
- 4.11 Parliamentary Committees
- 4.12 Amendment Procedure of Indian Constitution
- 4.13 Significance of Union Legislature (Parliament)
- Summary
- Questions

4.0 Introduction

The Union Legislature (Parliament) is the highest Legislative organ of the Union Government. Due to that adoption of the Parliamentary government, it occupies a pre-eminent and central position in Indian democratic political system. The makers of Indian Constitution suggested Westminster Model of legislature for Indian Parliament which is a bicameral legislature. It is the supreme legislature of the Union of India. The Union Legislature makes laws required for the citizens of India. It serves as the law making body. It reflects the opinions, hopes and aspirations of the citizens of India. Article 79 to 129 in Part V of Indian Constitution deal with the composition, organization, powers and functions of the Indian Union Legislature. Indian Parliament consists of the i) President ii) Lok Sabha (House of People) iii) Rajya Sabha (Council of States). Lok Sabha represents the people of India and Rajya Sabha represents the states and union territories. In India The President of India has the power to summon or prorogue the two Houses of Parliament though he is not a member of either house. He can dissolve the Lok Sabha on the advice of the Union Council of Ministers headed by the Prime Minister.

4.1 Union Legislature (Parliament)

The Union Legislature, popularly known as Parliament, is a component of the government. It is a bicameral in nature. It consists of the House of People (Lok Sabha) and the Council of States (Rajya Sabha). The House of the People is also known as Lower House represents the people Council of States, popularly known as Upper House which represents the States and Union Territories in India. Legally, the law making powers are exercised by the President and Parliament. The Union Parliament is a non-sovereign legislature. It exercises only those powers which the Constitution have granted to it. It works according the provisions of the Constitution. The President can use a veto over the ordinary laws passed by the Union Legislature. The Supreme Court of India can exercise Judicial Review over all laws enacted by the Union Parliament for determining their Constitutional validity. It can declare any law as *ultra vires* when the former is passed and implemented against the constitutional provisions. So the Union Parliament is not a sovereign legislature. Hence, we have the 'President-in-Parliament like the Crown-in-British Parliament'. All these matters of composition, organization, powers and functions, law making procedure, amendment process, functions of Speaker and Chairman, privileges of members, types of bills and Parliamentary Committees etc. are dealt in this chapter.

4.2 Unique Features of Union Legislature

The Union Legislature has the following unique features:

1. The Union Legislature is bicameral legislature in structure
2. Indian Parliament is not a sovereign body. It acts according to provisions of the constitution.
3. Powers and functions of both the Houses are not equal in Union Legislature.
4. Union Legislature has some nominated members in both the Houses.
5. Union Parliament enjoys several legislative, executive and judicial powers.
6. There will be a chairman of the Rajya Sabha. The vice president of India acts as its ex-official chairman.
7. The Speaker of Lok Sabha though he belongs to the ruling party, runs the House impartially irrespective of party affiliations unlike the Speaker in British Parliament or the Speaker in US Congress.
8. The President is not a member of the Parliament but he is regarded as integral part of Parliament.

4.3 Lok Sabha

The Lok Sabha is popularly known as the House of the People or the Lower House. It represents the people of India. It is directly elected by the people of India. It is a powerful, democratic and fully representative House of the Union Legislature. It enjoys very strong position and plays a significant role in the Union Legislature. It acts as a source of laws and policies meant for the wellbeing of the people and the progress and development of the country.

4.3.1 Composition

At present, the maximum strength of Lok Sabha is 552. Its members belong to the states, union territories and nominated category. Out of the total members, 530 members represent the states, 20 members represent of union territories and the remaining two members belonging to Anglo-Indian Community are to be nominated by the President.

Allocation of Seats in the House of People (Lok Sabha)

S.No.	Name of the State / UT	Total	Reserve for SCs	Reserved for STs
1	Andhra Pradesh	25	04	01
2	Arunachal Pradesh	02	—	—
3	Assam	14	01	02
4	Bihar	40	06	—
5	Chhattisgarh	11	01	04
6	Goa	02	—	—
7	Gujarat	26	02	04
8	Haryana	10	02	—
9	Himachal Pradesh	04	01	—
10	Jharkhand	14	01	05
11	Jammu & Kashmir	06	—	—
12	Karnataka	28	05	02
13	Kerala	20	02	—
14	Madhya Pradesh	29	04	06
15	Maharashtra	48	05	04
16	Manipur	02	—	01

S.No.	Name of the State / UT	Total	Reserve for SCs	Reserved for STs
17	Meghalaya	02	—	02
18	Mizoram	01	—	01
19	Nagaland	01	—	—
20	Odisha	21	03	05
21	Punjab	13	04	—
22	Rajasthan	25	04	03
23	Sikkim	01	—	—
24	Tamil Nadu	39	07	—
25	Telangana	17	03	02
26	Tripura	02	—	01
27	Uttaranchal	05	01	—
28	Uttar Pradesh	80	17	—
29	West Bengal	42	10	02
	Union Territories			
1	Andaman & Nicobar	01	—	—
2	Chandigarh	01	—	—
3	Dadra & Nagar Haveli	01	—	01
4	Daman & Diu	01	—	—
5	Delhi	07	01	—
6	Lakshadweep	01	—	01
7	Pondicherry	01	—	—
	Anglo-Indians	02	—	—

4.3.2 Election

The members of the Lok Sabha (excepting the nominated members) are directly elected by the people from the territorial constituencies in the states. The election is based on the principle of universal adult franchise. Every Indian Citizen who is above 18 years of age and who is not disqualified under the provisions of the Constitution or any law is eligible to cast

vote in such elections. The voters in India have begun to exercise their franchise through Electronic Voting Machines (EVMs) throughout the country since 1999, for choosing their representatives.

4.3.3 Qualifications & Disqualifications

A person who wishes to contest as a member of the Lok Sabha shall possess following qualifications:

- He should be a citizen of India
- He should not be less than 25 years of age
- He should not hold any office of profit under the Union or state government
- He should possess such other qualifications as prescribed by the Parliament by law
- Every contesting person should pay Rs.10,000/- as security deposit. The contesting candidate must get 1/6th votes to get back the security deposit.

Disqualifications

A person remains disqualified for being elected as member of Lok Sabha.

- (i) If he is of unsound mind as declared by a court of law.
- (ii) If he is an undischarged insolvent
- (iii) If he is not a citizen of India
- (iv) If he is disqualified by or under any law made by the Parliament

4.3.4 Term of Office – Dissolution

The normal term of Lok Sabha is 5 years. This term can be extended for one year during emergency. Fresh elections to the Lok Sabha must be held within six months after the end of the emergency. The President can dissolve the Lok Sabha before the expiry of its term on the advice of the Union Council of Ministers headed by the Prime Minister. For example, President Pranab Mukharjee dissolved the 15th Lok Sabha on the written advice of the Union Cabinet headed by the Prime Minister Manmohan Singh on May 18, 2014.

Tenure of Lok Sabha

Lok Sabha	Date of first meeting after its Constitution	Date of dissolution
First Lok Sabha	13-05-1952	04-04-1957
Second Lok Sabha	10-05-1957	31-03-1962
Third Lok Sabha	16-04-1962	03-03-1967
Fourth Lok Sabha	16-03-1967	27-12-1970
Fifth Lok Sabha	19-03-1971	18-01-1977
Sixth Lok Sabha	25-03-1977	22-08-1979
Seventh Lok Sabha	21-01-1980	31-12-1984
Eighth Lok Sabha	15-01-1985	27-11-1989
Ninth Lok Sabha	18-12-1989	13-03-1991
Tenth Lok Sabha	09-07-1991	10-05-1996
Eleventh Lok Sabha	22-05-1996	04-12-1997
Twelfth Lok Sabha	23-03-1998	26-04-1999
Thirteenth Lok Sabha	20-10-1999	16-02-2004
Fourteenth Lok Sabha	02-06-2004	27-05-2009
Fifteenth Lok Sabha	02-06-2009	18-05-2014
Sixteenth Lok Sabha	04-06-2014	Till date

4.3.5 Oath or Affirmation

Every member of either House of Parliament before taking his seat in the House has to make and subscribe to an oath before the President or some persons appointed by him for this purpose. In his oath, a Member of Parliament swears:

1. To bear true faith and allegiance to the Constitution of India
2. To uphold the sovereignty and integrity of India, and
3. To faithfully discharge the duty of a member upon which he is about to enter.

The oath is a prerequisite for every member taking his seat in either House of the Parliament.

4.3.6 Salary and Allowances

At present, every member of Lok Sabha receives a salary of Rs.50,000/- per month, constituency allowance Rs.45,000/- per month, Daily Allowances of Rs.2,000/- and other allowances Rs.45,000/- per month. A member retiring after completing his term get a monthly pension of Rs.20, 000/-. However, there is no provision of pension to the members in the Constitution but this has provided by the Parliament only. Besides the above, the members are provided with travelling facilities, free accommodation, telephone, vehicle advance and medical facilities.

4.3.7 Sessions

The President of India can decide to summon the session of the Parliament at any time. But the gap between two meetings of the Parliament cannot be of more than six months. Normally the sessions of Lok Sabha are held thrice a year. While the first session is held in February-March (Budget Session), the second session is conducted in July-August (Monsoon Session) and the third session is arranged in November-December (Winter Session). The President shall address both the Houses of the Parliament assembled together at the commencement of first session after every general election to the House of People.

4.3.8 Quorum

Quorum implies minimum attendance of members required for conducting the meetings of the Lok Sabha. The quorum is fixed at 1/10th of the total membership in the House. The Speaker decides whether there is a quorum on a particular day for conducting the proceedings House. Whenever there is no quorum, he postpones the meetings for an hour or two or for the next day. There are several instances wherein the meetings of the Lok Sabha were deferred due to lack of quorum.

4.4 The Speaker of the Lok Sabha

Articles 93 to 97 of the Constitution deal with the office of the Speaker of Lok Sabha. Each House of Parliament in India has its own presiding officer. The Constitution provides for a Speaker for Lok Sabha. He is elected by the Lok Sabha from amongst its members. The Speaker, as acts as head of the Lok Sabha, guardian of members and principal spokesman of the house. He enjoys supreme authority and power on the floor of the House. He has of great dignity and respect from all the members in the House. No other office can compare with the office of Speaker in the House. When he Speaks no one is allowed Speak in the house.

The Speakers of the Lok Sabha

House	Speaker	Tenure	
		From	To
First Lok Sabha	Ganesh Vasudev Mavalankar	15-05-1952	27-02-1956
	M. Ananthasayanam Ayyangar	08-03-1956	10-05-1957
Second Lok Sabha	M. Ananthasayanam Ayyangar	11-05-1957	16-04-1962
Third Lok Sabha	Sardar Hukum Singh	17-04-1962	16-03-1967
Fourth Lok Sabhas	Neelam Sanjeeva Reddy	17-03-1967	19-07-1971
	Gurudayal Singh Dhillon	08-08-1969	19-03-1971
Fifth Lok Sabha	Gurudayal Singh Dhillon	22-03-1971	1-12-1975
	Bali Ram Bhagat	05-01-1976	25-03-1977
Sixth Lok Sabha	Neelam Sanjeeva Reddy	26-03-1977	13-07-1977
	Koudur Sadananda Hedge	21-07-1977	21-01-1980
Seventh Lok Sabha	Bala Ram Jakkhar	22-0 M 980	15-01-1985
Eighth Lok Sabha	Bala Ram Jakkhar	16-01-1985	18-12-1989
Ninth Lok Sabha	Rabi Ray	19-12-1989	09-07-1991
Tenth Lok Sabha	Sivaraj Patil	10-07-1991	22-05-1996
Eleventh Lok Sabha	P.A. Sangma	23-05-1996	23-03-1998
Twelfth Lok Sabha	G.M.C. Balayogi	24-03-1998	20-10-1999
Thirteenth Lok Sabha	G.M.C. Balayogi	22-10-1999	03-03-2002
	Manohar Gajanan Joshi	10-05-2002	03-06-2004
Fourteenth Lok Sabha	Somanath Chatterjee	04-06-2004	27-05-2009
Fifteenth Lok Sabha	Mrs. Meira Kumar	03-06-2009	04-06-2014
Sixteenth Lok Sabha	Mrs. Sumitra Mahajan	06-06-2014	Till date

4.4.1 Election of the Speaker

The members of the Lok Sabha elect the Speaker and the Deputy Speaker from among themselves. Normally there is a convention that while the office of the speaker is left to the party in power, Deputy Speakership is allotted to the parties having ideological understanding with the party in power. But sometimes the party in power may retain the two offices. When no single party secures majority or when a coalition ministry is formed, the coalition partners will make efforts for deciding the candidature for the office of the Speaker. Sometimes coalition partners may hand over that office to a candidate selected by the parties that declare support from outside.

4.4.2 Method of Removal

When the Speaker is not in a position to discharge his functions properly, rationally and impartially, the members of Lok Sabha can remove him. A resolution to that effect shall be introduced in the House with a prior notice of 14 days. The House begins discussion over the resolution on any day after the expiry of the period. The Speaker is not eligible to preside over such a meeting. He cannot participate in the voting on that resolution. However, he could attend the meeting and express his views.

4.4.3 Salary and Allowances

At present, the Speaker receives a monthly salary and allowances of Rs. 1,40,000/-. Besides, he is provided with rent free accommodation, medical, traveling and telephone facilities. His salaries and allowances are charged on the Consolidated Fund of India so they are not subject to the annual vote of Parliament.

4.4.4 Deputy Speaker

As per Article 93 of Indian Constitution, there will be a Deputy Speaker for conducting the proceedings of the Lok Sabha in the absence of the Speaker. The Deputy Speaker is elected by the members of the Lok Sabha from among themselves. The Deputy Speaker, while acting as the presiding officer, enjoys all the powers and privileges of the Speaker. If he is a member of one of the Parliamentary Committees, he will act as the chairman of that committee. He is authorized to participate in the meetings of various committees in the Lok Sabha. He has freedom to participate in the meetings of the Lok Sabha like other members on all occasions. He can express his views on the Bills, cast his vote on Bills and continue his relations with the party. He is not subordinate to the Speaker. He is directly responsible to the House. He is entitled to receive a monthly salary of Rs. 90,000/- fixed by the Parliament and is charged on the Consolidated Fund of India.

4.4.5 Pro-tem Speaker

The President appoints the pro-tem Speaker for presiding over the meeting at the first session of the Parliament after general election. Normally, the President appoints the senior most member in terms of age, knowledge of legislative rules or more number of terms elected as the pro-tem Speaker. The pro-tem Speaker administers the oath of office on the elected members. Election to the office of the Speaker is held later. Pro-tem Speaker post is dissolved the soon after the election of the new Speaker. For instance, President Prathiba Patil appointed Manik Rao Govitt as the Pro-tem Speaker in the 15th Lok Sabha.

4.4.6 Panel of Speakers

The Speaker nominates some of the members of the Lok Sabha as panel speakers. Maximum strength of panel of chairpersons will be 10. If both the Speaker & Deputy Speaker are absent at particular time, one of the members from the panel of chairpersons will act as the speaker.

4.4.7 Powers and functions of the Speaker

The Constitution of India provided considerable powers to the Speaker in discharging his functions properly and efficiently. Besides, the Rules of Procedure and Conduct of Business in Parliament (1950) specifies the following diversified powers of the Speaker:

1. The Speaker presides over the meetings of the Lok Sabha. He conducts the meetings with dignity, order and efficiency. He determines the agenda of the meetings with the prior consultation of the leader of the House.
2. He allots time to the members to express their views on the Bills, conducts voting if necessary, and announces the results.
3. He sends Bills to the Rajya Sabha after they are approved by the Lok Sabha. On the receipt of the bills from the Rajya Sabha, he certifies and sends them to the President of India for his consent.
4. He acts as the representative of the Lok Sabha. He sends messages and directives to the members on behalf of the Lok Sabha.
5. He takes steps for safeguarding the rights and privileges of the members and for up holding the respect of the House. He, by adopting equalitarian and impartial view towards the treasury benches and the opposition, ensures peaceful atmosphere in the House through his rulings whenever there is uproar.
6. He has the privilege of determining whether a bill is Money Bill or not. He accords permission to the members for introducing various Bills in the House. He gives his signature on the bill approved by the House.

7. He is empowered to (i) allow members to raise point of order on a Bill, (ii) permit the members to move a no-confidence motion against the government, (iii) mention important public issues, (iv) postpone the meetings of the House and (v) decide the quorum in the House.
8. He facilitates the members to express their views on the thanks-giving motion on President's speech.
9. He constitutes various House Committees and appoints their chairpersons. He acts as the Ex-officio Chairman of some Committees such as Rules Committee, Business Affairs Committee etc
10. He presides over the joint session of the Parliament.
11. He acts as a member of Commonwealth Speakers Forum, Chairman of Indian Parliamentary Group and Head of the Lok Sabha Secretariat.
12. He receives the electoral certificates of the new members, takes decisions on the member's resignations, allots seats to the press, visitors etc.
13. He supervises the activities of marshals and other personnel in the premises of the House.
14. He exercises his casting vote in case of a tie over a bill
15. He conducts the election of the Deputy Speaker in case of a vacancy.

It becomes a crucial task for the Speaker to exercise the powers and functions. Hence, he must have efficiency and thorough knowledge about the Parliamentary practices. He must also possess oratory skill, patience, controlling capacity, clean and honest character. In this regard the words of Pandit Jawaharlal Nehru is mentioned worthy "the Speaker represents the House. He represents the dignity of the House and because the House represents the nation in a particular way. The Speaker becomes symbol of nation's freedom and liberty".

4.5 Rajya Sabha

Article 80 of Indian Constitution deals with the composition, election procedure, powers and functions of the Rajya Sabha. Rajya Sabha is the Upper House or second chamber in the Union Legislature. It is also called as the Council of States. It is compared with the American Upper House, i.e., 'Senate'. The uniqueness of Rajya Sabha is that it is stronger than British Upper House i.e., House of Lords but weaker than the American Senate. The Rajya Sabha membership depends upon the population of the States. The Rajya Sabha was constituted on April 3, 1952 and its first sitting was held on May 13, 1952.

4.5.1 Composition

Rajya Sabha consists of not more than 250 members. The Vice-President of India is its Ex-officio Chairman. One of the members in the Rajya Sabha is elected as its Deputy Chairman. At present there are 245 members in the Rajya Sabha. Of them 233 members belong to the elected from the states and the remaining 12 members belong to the nominated by the President. Of the total elected members, 229 members represent the 29 States, 3 members belong to the National Capital Territory of Delhi and one member represents the Union Territory of Puducherry. The President of India nominates 12 members having special knowledge or practical experience in respect of matters such as literature, science, arts and social service.

4.5.2 Election

The members of the Rajya Sabha are elected by the State Legislative Assemblies. The election takes place by means of proportional representation . The nominated members of State Legislative Assemblies also cast their vote in the election of the Rajya Sabha members. The Election Commission of India organizes these elections. The election procedure meant for filling up the seats in the Rajya Sabha was drawn from the Constitution of erstwhile South Africa.

4.5.3 Qualifications

A person to be elected as a member of the Rajya Sabha shall possess the following qualifications:

1. He shall be a citizen of India
2. He shall have completed 30 years of age
3. He shall be a resident of the state for a minimum of six months
4. He should not hold any office of profit under the Government of India or of the state government
5. He should not be insane or bankrupt
6. He shall possess such other qualifications as prescribed by the Parliament

4.5.4 Term of Office – Dissolution

Rajya Sabha is a permanent House. The tenure of a member is 6 years. The Rajya Sabha is not subject to dissolution. Election to Rajya Sabha is called as bi-annual elections. It means 1/3rd of its members shall retire at the end of every two years. New members can be elected and the retired members are eligible for re-election. If a member is elected in by-elections to Rajya Sabha the vacancy arises due to the resignation of any other reason, he can be a member for the remaining period only. The President of India summons each House of Parliament.

4.5.5 Sessions

The Rajya Sabha, like the Lok Sabha, meets at least twice a year. There shall not be a gap of more than six months between the two sessions. The sessions of the Rajya Sabha may continue even after the dissolution of the Lok Sabha. The Vice-President of India is the Ex-officio Chairman of the House and presides over the meetings. The Deputy Chairman, in the absence of the Chairman, conducts the proceedings. There will be a panel of Vice-Chairmen comprising six members nominated by the Chairman to preside over the meetings in the absence of the Chairman/the Deputy Chairman. There will be a leader of the House who is nominated by the Prime Minister. There will also be a leader of the opposition.

4.5.6 Quorum

The rules applicable to be the Lok Sabha are extended to the Rajya Sabha in regard to the quorum. 1/10th of the total members shall attend for conducting its meetings. The presiding officer will conduct the meetings after considering the quorum in the House. In case there is no quorum on a particular day, he may defer the meetings for a short while or for the next day.

4.5.7 Salary and Allowance of the Members

At present, every member of Rajya Sabha gets a monthly salary, including with all allowances, of Rs. Rs.1,32,000/- . After the completion of the tenure, he gets a monthly pension of Rs.20,000/- . Other facilities like accommodation, medical, telephone etc., is entitled to get on par with the members of Lok Sabha.

4.6 Chariman of Rajya Sabha

The Presiding Officer of Rajya Sabha is popularly known as the Chairman. The Vice-President of India acts as the Ex-Chairman of the Rajya Sabha. He is not a member of the House. The members of Parliament elect him for every five years as the Vice-President of India. It implies that both the members of the Lok Sabha and the Rajya Sabha cast their vote in the Vice-Presidential election. At present he is paid Rs, 1,40,000/- towards monthly salary and allowances. His salaries and allowances are charged on the Consolidated Fund of India. The Chairman of Rajya Sabha vacates his office only if he is removed from the office of the Vice President.

4.6.1 Deputy Chairman

The Deputy Chairman of Rajya Sabha is elected by the members of the Rajya Sabha amongst the members. The Deputy Chairman receives a monthly salary of Rs 90,000/-. In the absence of the Chairman, the Deputy Chairman acts as Chairman and presides over the meetings of the Rajya Sabha. Whenever the office of the Deputy Chairman falls vacant, the members of Rajya Sabha will elect another member to fill the vacancy.

4.6.2 Panel of Vice-Chairpersons

The Chairman of Rajya Sabha nominates six persons amongst the members as Panel of Vice-Chairpersons to conduct legislative proceedings of Rajya Sabha in the absence of both the Chairman and Deputy Chairman.

4.6.3 Powers and Functions of Chairman of Rajya Sabha

The chairman of Rajya Sabha has the following powers and functions.

1. The Chairman presides over the meeting of Rajya Sabha. He conducts the meetings with discipline, dignity and decorum.
2. He allows the members of the part in power and opposition to introduce various bills in the House and to carry out discussions on them.
3. He conducts voting on various bills and announces the results. Whenever there is a tie in accepting a bill he exercises his casting vote to decide the fate of the bill. He sends the bills approved by the Rajya Sabha to the Lok Sabha. Similarly, he communicates the messages to the members. He ensures that the bills sent by the Lok Sabha are presented in Rajya Sabha.
4. While corresponding with other organizations and persons, he represents the Rajya Sabha. He appoints the Secretary General and exercises control over the Secretariat and personnel of the Rajya Sabha.
5. He allows the ministers to make announcements in the Rajya Sabha. He also allows the media persons, people and diplomatic envoys to watch the proceedings of the Rajya Sabha.
6. He participates in the joint sitting of the Parliament as the Chairman of the Rajya Sabha.
7. He announces the panel of Vice-Chairmen to conduct the meetings of the Rajya Sabha. He examines the cases regarding violations of rules, if any, in the House.
8. He conducts the election to the office of the Deputy Chairman of the Rajya Sabha.

4.7 Powers and Functions of Union Legislature (Indian Parliament)

In the Indian Politico-administrative system, Parliament occupies a central position. It plays a key role in formulating laws for fulfilling the aims and aspirations of the people. It enjoys extensive powers and performs variety of functions. These powers and functions are under the following points:

1. Legislative Powers and Functions

The primary function of the Parliament is to make laws for the governance of the country. It considers and approves bills on the subjects included in the Union and Concurrent Lists. Similarly, it approves bills on the subjects included in the State List during (i) national emergency (ii) President's rule and (iii) on the request of the Rajya Sabha and some State Legislative Assemblies. It approves bills in the place of ordinance. Normally, the bills are introduced in either of the two Houses. Every bill shall be sent to the President. In case of deadlock in accepting any bill, the President convenes a joint session of the two Houses of the Parliament. The Speaker of the Lok Sabha presides over the joint session. The joint session of the Parliament was held thrice in this regard so far. The first joint session of the Parliament was held on May 6 to 9, 1961 for considering the Dowry Prohibition Bill: the second one on May 16, 1978 for approving the Banking Service Commission (abolition) Bill and the third one on March 26, 2002 for approving the ordinance on Prevention Of Terrorist Activities (POTA).

2. Executive Powers and Functions

In Parliamentary form of government, the real executive is responsible to the Parliament. Hence, the Indian Parliament exercises control over the Union Executive (the Union Council of Ministers). It ensures that the ministers, including the Prime Minister, owe individual, joint and collective responsibility for their acts. Its members exercise control over the executive through several means such as questions, supplementary questions and by moving cut motions and finally no-confidence motion. The ministers including the Prime Minister have to respond to the questions of Parliament members in a clear, proper and prompt manner. The members review the previous and present policies and decisions of the government in the process of approving the union Budget. They exercise complete control over the Union Executive on the occasions of zero hour, cut motion, privileges motion, vote on account etc. Similarly, various Parliamentary committees and select committees enquire into the allegations leveled against the union government. The Lok Sabha can decide the fate of the executive by approving a no confidence motion of the Opposition or a confidence motion of the leader of the House. For instance, Prime Minister Charan Singh, who proposed a confidence motion in the Lok Sabha resigned well before the discussion and the voting was held. Similarly in 1999, Prime Minister Vajpayee resigned consequent upon the rejection of a confidence motion by the Lok Sabha. Mid-term elections to the Lok Sabha were held on the above occasions.

3. *Financial Powers and Functions*

No tax can be collected and no expenditure can be incurred by the executive except under the authority and with the approval of Parliament. The Indian Parliament sanctions the money required for carrying out the affairs of the Union Government. It approves the money bills proposed by the union ministry. The Union Government shall impose new taxes, revise old taxes or abolish the existing taxes only with the approval of the Parliament. Similarly, Parliament considers and approves the reports of the (i) Comptroller and Auditor General of India, (ii) Finance Commission (iii) Public Committee and (iv) Estimates Committee. The Lok Sabha possesses more powers in this matter than that of the Rajya Sabha.

4. *Judicial Powers and Functions*

Indian Parliament is empowered to impeach the President, the Vice-President, the Chief Justice and other Judges of the Supreme Court and High Courts on specific grounds of allegations of corruption, inefficiency etc. It plays a decisive role in the removal of the Chief Election Commissioner and other Election Commissioners, Chairman and Members of the Union Public Service Commission, Comptroller and Auditor General of India and other higher officers of the Union Government. It is empowered to warn or punish those who defy the privileges and proceedings of the two Houses.

5. *Constitutional Powers and Functions*

The Constitutional powers of the Parliament are not unlimited subjects to the basic structure of the Constitution. Article 368 empowers Indian Parliament to amend the provisions of the Indian Constitution. The Parliament takes initiative to bring out proper changes in the Constitution without affecting its basic structure. For instance, recently the Parliament considered the constitution (One hundred second Amendment) Bill for conferring statehood to Delhi.

6. *Electoral Powers*

Indian Parliament elects the President and the Vice-President. The members of the Lok Sabha elect the Speaker and the Deputy Speaker from among themselves. Similarly, the members of the Rajya Sabha elect the Deputy Chairman from among themselves. They also elect the members of various Parliamentary committees.

7. *Deliberative Powers and Functions*

The Indian Parliament serves as the apex forum of the deliberations and public opinion. It discusses at length the contemporary national and international issues. Matters concerning redressal of public grievances, steps taken by the Union Government in addressing the current problems, the working pattern of political and administrative heads etc., are all discussed in the Parliament. The discussions and deliberations of Parliament greatly influence the ideas of the people by initiating all such activities.

8. Other Powers and Functions

The Indian Parliament discusses bills relating to the (i) alteration of boundaries of states, (ii) creation or abolition of Legislative Councils and (iii) changes in the name of states. It serves as a training centre for the newly elected members in understanding the legislative procedures. It enables the members to have comprehensive and qualitative discussions and arrive at decisions by forming into small committees.

4.8 Types of Bills in Parliament

A Bill is a proposed law under consideration by a legislature. A bill does not become law until it is passed by the legislature. Once a bill has been enacted into law, it is called an Act or Statute. Bills introduced in the Parliament are of two types, 1. Public Bill (Government Bill) and 2. Private Bills (Private Member's Bills). The Public Bills are introduced by the Ministers in the Parliament whereas the Private Bills are introduced by any Member of Parliament other than a Minister. The bills introduced in the Parliament may also be classified into four categories.

1. Ordinary Bill
2. Money Bill
3. Finance Bill
4. Constitutional Amendment Bill

Ordinary Bills are concerned with any matter other than financial subjects. Money Bills are concerned with the financial matters like taxation, public expenditure etc. The Financial Bills are also concerned with financial matters but are different from money bills. These Bills deal with fiscal matter i.e., revenue or expenditure. Constitutional Amendment bills are concerned with the provisions of the Constitution.

4.9 Law Making Procedure in Parliament

The legislative procedure is identical in both the Houses of Parliament. Every bill has to pass through the same stages in each house. A bill is a proposal for legislation and it becomes an act or law when duly enacted. This law making process is the prime duty of the every Parliament. The law making process in our Constitution was borrowed from the British Constitution. The Constitution has laid down separate procedure for the enactment of the bills. The procedures with regard to ordinary bills, money bills, financial bills and Constitution amendment bills are explained in detail hereunder:

1. Ordinary Bill

Every ordinary bill has to pass through the following five stages in the Parliament before it finds a place on the statute books. They are: 1. drafting of the bill, 2. Three Readings, 3. considering the bill in the Second House, 4. Joint session 5. President's assent. These may be explained as under:

Stage – 1. Drafting of the bill

When there is a proposal for introducing a bill in the Parliament, the concerned ministry gathers information with regard to the political and administrative matters of the bill. Thereafter, it submits the proposal to the consideration of the Union Cabinet. If the Union Cabinet accepts it the concerned minister submits the bill with a prior notice of eight days in either House of the Parliament. The bill will be included in the business of the House on a particular day as decided by the Speaker. The copies of the bill will be made available to the members two days prior to its introduction in the House. In the second stage there are three readings.

Stage – 2 : Three Readings

- a. **First Reading:** The member-in-charge of the bill, on a particular day, with the permission of the presiding officer, introduces the bill in the House after the question hour. The House grants leave by a voice vote. Normally no discussion takes place at this state. If any member opposes the bill, the presiding officer allows a detailed discussion during which the Attorney General may participate. Thereafter, the objection is put to vote in the House. Then the bill will be published in the Gazette of India.
- b. **Second Reading:** In second reading there are two stages namely (a) first stage and (b) second stage,
 - (i) **First Stage:** In the first stage, a general discussion takes place in which only principles, not details, of the bill are taken into consideration. The member-in-charge of the bill requests the House to consider four alternative methods, namely (i) considering the bill immediately, (ii) referring the bill to the select committee, (iii) referring the bill to the joint committee and (iv) eliciting public opinion on the bill.
 - (ii) **Second Stage:** Soon after completion of the procedure in the first stage, the House considers the report of the select/joint committee clause by clause. Each clause is discussed and amended, if any, are adopted or rejected by the House.

- c. **Third Reading:** In this stage all clauses and schedules of the bill shall be considered and voted by the House, the member-in-charge requests the House to pass the bill. At this stage the House confines its discussion either in favour or against the bill without looking into the minute details. Only the form and sentence construction, changes, if any in the context are allowed. The House accepts the bill with simple majority.

Stage – 3: Consideration of Bill in the Second House

After the bills have been passed by the originating house, it is transmitted to the second House for its concurrence. The second House, like the first one, considers the bill at various stages. At this juncture, the second House may accept the Bill with or without modifications or reject the bill completely. If the second house accepts the Bill in toto, it will be sent to the President for his assent. Otherwise, the bill will be sent back to the first House. After two days, the member-in-charge in the first House requests the House to accept the modifications proposed by the second House. If the first House agrees, the bill is deemed to have been accepted by the two Houses. Otherwise, the bill will be sent to the second House. When the second House is particular about its modifications, there arises a deadlock. Sometimes, the second House keeps the bill without consideration up to six months. But even after the lapse of such a period and still the bill remains unacceptable by the second House, it will be viewed that there is a deadlock between the two Houses.

Stage – 4 : Joint Session

In case of a deadlock, the President convenes a joint session of the two Houses. The Speaker of the Lok Sabha presides over the meeting. The members are allowed to propose modifications to the bill. The fate of the bill is decided by the decision of the majority members. Until now, the joint sessions of Parliament were held on three occasions, namely, (i) Dowry Prohibition Bill, 1961; (ii) Banking Service Commission (Repeal) Bill, 1978; and (iii) POTA Bill (2002).

Stage – 5: President's Assent

When a bill is passed by the two Houses, the Speaker sends the bill to the President for his assent. When the President gives his assent, the bill comes into force. However, sometimes the President has the power to send back the bill to the Parliament for its reconsideration. Then the bill naturally passes through all stages in the two Houses once again. The President shall give his assent to the bill without fail on its approval by both the Houses having reconsidered it. He cannot withhold his assent this time.

Money Bill

Article 110 of the Constitution deals with the definition of Money Bill. It states that a bill is deemed to be a money bill if it contains 'only' provision dealing with all or any of the following matters:

1. The imposition, abolition, remission, alteration or regulation of any tax
2. The regulation of the borrowing of money by the Union Government
3. The Custody of the Consolidated Fund of India or the Contingency Fund of India, the payment of money into or the withdraw of money from any such fund
4. The appropriation of money out of the Consolidated Fund of India
5. Declaration of any expenditure charged on the Consolidated Fund of India or increasing the amount of any such expenditure
6. The receipt of money on account of the Consolidated Fund of India or the Public Account of India or the custody or issue of such money, or the audit of the accounts of the Union or of a state; or
7. Any matter incidental to any of the matters specified above.

The Speaker of the Lok Sabha ultimately is empowered to decide the nature of a bill in case of a doubt. His decision cannot be challenged in a court of law. Money bills shall be transmitted to the Rajya Sabha or to the President only with the signature of the Speaker.

The following is the procedure adopted in passing money bills in the Parliament.

1. Money bills shall be introduced only in the House of People. They shall not be directly introduced in Rajya Sabha.
2. They shall be introduced in the Parliament only with the prior permission of the President of India.
3. They shall be sent to the Rajya Sabha only after the bill is duly passed with the signature of Speaker of the Lok Sabha.
4. If the Rajya Sabha fails to approve the Money Bill within fourteen days from the date of receipt of the bill, the Lok Sabha shall send that money bill to the President deeming that the Parliament has approved it.
5. The Lok Sabha has the power to accept the money bill with or without changes as suggested by the Rajya Sabha.

4.10 Important Matters in the Parliament

1. Agenda

The list of items which are placed for discussion in the House is called Agenda.

2. Presidential address on the eve of the Budget

The Budget meeting starts with President's speech and he addresses both the Houses. The President's speech is prepared and approved by the central cabinet. The President reads out the speech before the commencement of Budget meeting in which the President presents the achievements and targets of the Government in the previous year and the future programmes and socio-economic and political policies to be followed in the next financial year. Later there will be a discussion in Parliament after one week which concludes with Motion of Thanks.

3. Question Hour

In both the Houses of Parliament first hour is allotted to Question Hour. Usually, the Parliament meeting commences at 11'o clock in the morning. The members, by giving notice to the presiding officer, can ask questions pertaining to public issues, administrative inefficiency or about role of the Government. These questions are of three kinds, namely, Starred Questions, Un-starred Questions and Short Notice Questions.

4. Zero Hour

Zero Hour starts immediately after the question hour and lasts until the agenda for the day is taken up. In other words, the time gap between the question hour and the agenda is known as Zero Hour. During this time, without giving any prior notice, the members can seek clarification on any issue. This method was adopted in 1962. The word Zero Hour is a creation of Journalists.

5. Starred Questions

A Starred Question requires an oral answer and hence supplementary questions can follow. These questions are called as starred questions because; they are marked with star for special recognition by the presiding officer. The minister concerned gives oral reply to these questions. Only twenty starred question are allowed in a Day.

6. Un-starred Questions

For Un-starred questions, the minister concerned gives written replies. So, there is no scope for supplementary questions. Questions which require statistics and public interest issues come under this category. Maximum of 230 un-starred questions are allowed in a day.

7. Short Notice Questions

Questions on the most important public issues come under this category. These questions are asked by giving notice of less than 10 days. These are answered orally.

8. Point of Order

A member can raise a point of order when the proceedings of the House do not follow the normal rules of procedure. It is usually raised by an Opposition member in order to control the government. It is an extraordinary device as it suspends the proceeding before the House. No debate is allowed on a point of order. With the prior permission of the Speaker any member can raise a point of order in the house.

9. Adjournment Motion

Adjournment motion is tabled in the Parliament to draw attention of the House to a definite matter of urgent public importance and needs the support of 50 members to be admitted. The discussion on an adjournment motion should last for not less than two hours and thirty minutes. If any member wants to introduce adjournment motion he should give in writing to the Speaker, the Minister concerned and the Secretary General of Parliament before 10 am on that day.

10. Confidence Motion

This is not mentioned in the Constitution or Parliamentary rules and regulations. If no party gets majority in the House, the President can appoint the Prime Minister and his cabinet by using his discretion and later they may be asked to seek vote of confidence in Parliament. Confidence motion is introduced by the party in power, if it is defeated in the Lok Sabha, the Prime Minister and the total cabinet should resign collectively.

11. No Confidence Motion

According to Article 75 of the Constitution, no confidence motion can be tabled in the Parliament when the cabinet behaves in an irresponsible manner and if the ruling party does not enjoy majority. No confidence motion is introduced by the opposition parties through written notice supported by at least 50 members and there will be a discussion on the motion. After the discussion there will be a voting. If the no confidence motion is passed or approved in the House the cabinet has to resign.

12. Censure Motion

This motion is introduced when the members are dissatisfied with the performance of a Minister or when allegation of corruption, misuse of power or mis-governance are leveled against a Minister.

13. Cut Motion

During the Budget Session, in the process of Voting of Demands, Opposition members may forward a resolution to reduce the allotment of funds from Rs.1/- to Rs.100/- to certain categories. There are three types of cut motions used to introduce in the Parliament, i.e., Policy Cut Motion, Token Cut Motion and Economy Cut Motion.

14. Adjournment *Sine-die*

Postponing the proceedings of the House without mentioning of the time is called *Sine-die*. The power to adjourn sine-die is with the Speaker. After adjourning sine-die the Speaker has right to summon the house.

15. Prorogue

The Presiding Officer declares the House adjourn sine die when the business of the session is completed. Within the next few days, the President issues a notification for prorogation of the Parliament session. This can be formally declared by the President or the Governor while in session. After prorogue if the summoning of the House is necessary, the President or the Governor has to give orders.

16. Whip

Every political party whether ruling or opposition has its own whip in the Parliament. He is appointed by the concerned party to serve as an assistant floor leader. He is charged with the responsibility of ensuring the attendance of his party members in large numbers. He regulates and monitors their behavior in the Parliament. The members are supposed to follow the directive given by whip. Otherwise, disciplinary action can be taken against those members.

4.11 Parliamentary Committees

Parliamentary Committees are the Committees which are appointed or elected by the House or nominated by the Speaker. These committees work under the direction of the Speaker and present their reports to the House or to the Speaker.

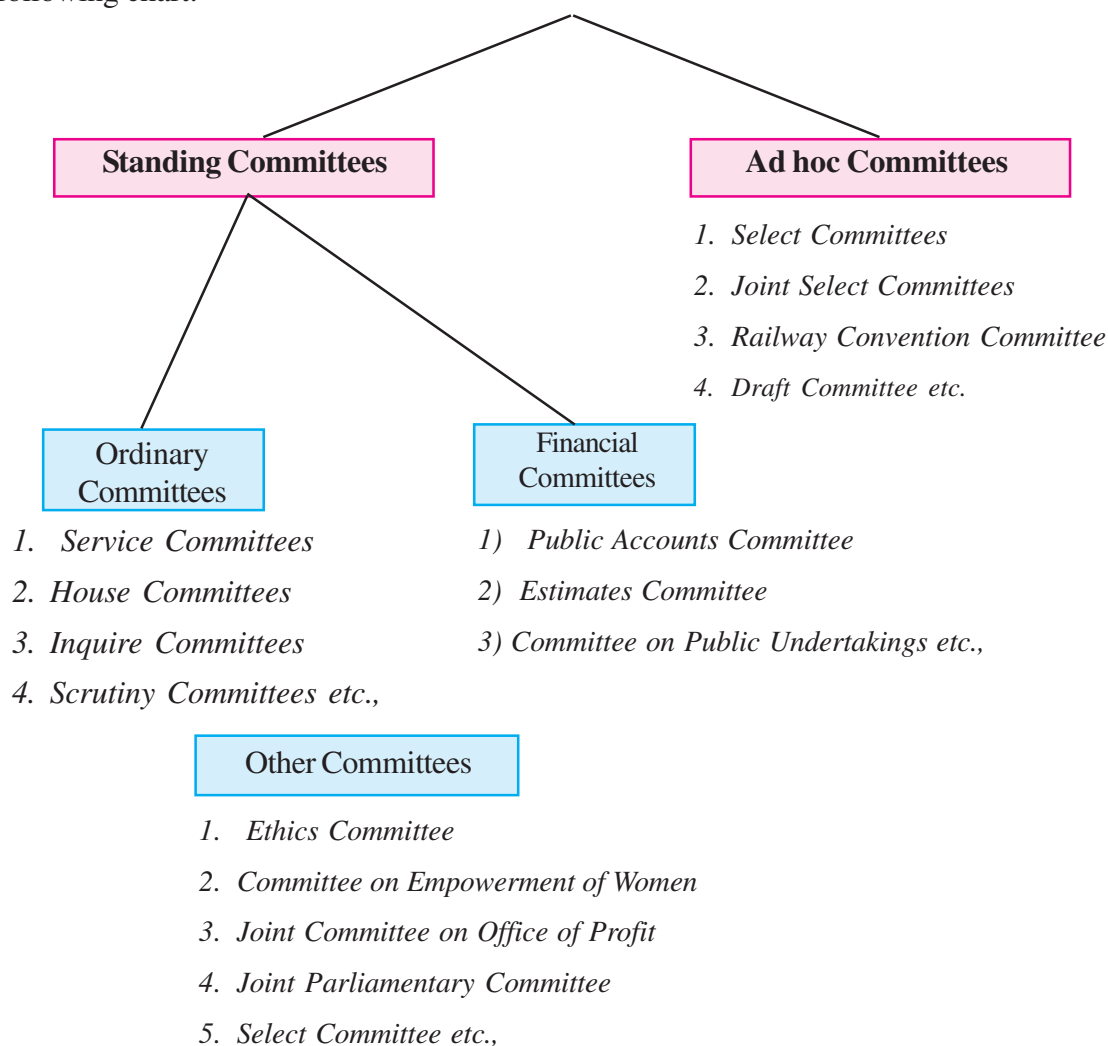
Basically Parliamentary Committees are classified into two types:

- 1) Standing Committees and
- 2) Ad hoc Committees.

Standing Committees are again classified into two types such as-

- 1) Ordinary Committees and
- 2) Financial Committees.

The composition and organization of Parliamentary Committees in India are shown in the following chart.



Service Committees, House Committees, Inquiry Committee, Scrutinize Committees etc., are some of the examples for the Ordinary Committees. Public Accounts Committee, Estimates Committee and Committee on Public Undertakings come under the category of financial committees. The Ad-hoc Committees consists of Select Committees, Joint Select Committees, Railway Convention Committee and Drafting committee etc. Besides, these committees, there are some other committees like Ethics Committee, Committee on Empowerment of Women, Joint Committee on Office of Profit, Joint Parliamentary Committee, Select Committee etc. These Committees examine the affairs of Union Ministries and Departments in the Parliament.

Parliamentary Committees

Though there are several committees working under the Parliament to lighten the burden of Parliamentary affairs, we are focusing on the financial committees which are playing a vital role in Parliamentary Financial Control in India. They are:

1. Public Accounts Committee
2. Estimates Committee
3. Committee on Public Undertakings

4.11.1 Public Accounts Committee

Public Accounts Committee was set up in 1921. It consists of 22 members. Out of them, 15 members belong to the Lok Sabha and 7 members to the Rajya Sabha. Their term of office is one year. They are elected by means of proportional representation and single transferable vote. The Speaker nominates one of the members as the chairman of the committee. It became a convention to appoint one of the members of the Opposition in the Lok Sabha as its chairman since 1967-68. The Committee performs the following functions:

1. The Committee examines the annual audit reports of the Comptroller and Auditor General (CAG) of India
2. It examines Public Expenditure not only from legal and formal point of view to discover technical irregularities but also from the point of view of economy, prudence, wisdom and propriety.
3. It brings out the appropriation accounts and the finance accounts of the Union Government and any other accounts laid before the Lok Sabha.
4. It examines whether the public funds are disbursed properly.
5. It examines the accounts of Autonomous and Semi-Autonomous bodies, the audit of which is conducted by the CAG.
6. It investigates the money spent on any service during the financial year in the excess of the amount granted by the Lok Sabha for that purpose.

The Comptroller and Auditor General renders assistance to this committee. The members of this committee carry out a country-wide tour and meet the concerned officers; non-officials, people and receive petitions from them and it submits a final report to the Speaker of the Lok Sabha.

4.11.2 Estimates Committee

The origin of this committee can be traced to the Standing Financial Committee setup in 1921. The Estimates Committee was at first constituted in April 1950 in free India. It consists of 30 members of the Lok Sabha. The Rajya Sabha has no representation in this Committee. These members are elected by the Lok Sabha every year from among its own members according to the principle of proportional representation by means of single transferrable vote. The members hold their office for a year. The Speaker of the Lok Sabha appoints the Chairman of the Committee. If the Deputy Speaker is a member of this Committee, the Speaker appoints him as the Chairman of the Committee. One third of the total members belong to newly elected members. The Chairman of the Committee will be appointed invariably from

the ruling party. Mr. M. Ananthasayanam Ayyangar acted as the first chairman of this committee in the first Lok Sabha. The members of this committee may visit different projects and hold discussions with the officers, non-officials, business groups and receive suggestions from them. The committee functions on permanent basis.

The Committee performs the following four important functions:

1. It offers suggestions in regard to the economy in expenditure, improvement in organization and efficiency of the Union Government.
2. It examines as to whether the public funds are disbursed as per the estimates.
3. It also examines the matters assigned to it by the Speaker of the Lok Sabha.
4. It examines whether the money is well laid out within the limits of the policy implied in the estimates. Hence, it has been described as a 'continuous economy committee'.

4.11.3 Committee on Public Undertakings

The Committee on Public Undertaking was created in 1964 on the recommendations of Krishna Menon Committee. It consists of 22 members, out of which 15 are from Lok Sabha and 7 from Rajya Sabha. The members of the committee are elected by the Parliament every year from amongst its own members according to the principle of proportional representation by means of single transferable vote. The purpose of the committee is to lighten the burden of Public Accounts Committee. The Chairman of the committee is appointed by the speaker from amongst its members who are drawn from the Lok Sabha only. The members of Rajya Sabha are not to be appointed as a Chairman of the committee. The functions of the committee are:

1. To examine the reports and accounts of Public Undertakings.
2. To examine the reports of the Comptroller and Audit of General on undertakings.
3. To examine whether the affairs of the public undertakings are being managed in accordance with sound business principles and practices.
4. To exercise such other functions vested in the Public Accounts Committee and the Estimates Committee.

4.12 Amendment Procedure of Indian Constitution

The Constitution of India adopted different methods of amendment procedure which had existed in erstwhile South African Constitution. Our Constitution is a combination of both rigid and flexible methods which are in three ways.

1. Amendment by a simple majority of the Parliament
2. Amendment by a special majority of the Parliament
3. Amendment by a special majority of the Parliament and the ratification of half of the state legislatures.

1. By Simple Majority of Parliament

A number of provisions in the Constitution can be amended by a simple majority of the two Houses of Parliament which includes admission or establishment of new states, abolition or creation of legislative councils in the states, quorum in Parliament, salaries and allowances of the Members of the Parliament etc.

2. By Special Majority of Parliament

A majority of the provisions in the Constitution need to be amended by a special majority of the Parliament, i.e., a majority of the total members of each House and the majority of two thirds of members of each House present and voting. The provisions which can be amended by this way includes, 1) Fundamental Rights, 2) Directive Principles of State Policy etc.

3. Special Majority of Parliament and Consent of States

Those provisions of the Constitution which are related to the federal structure of polity can be amended by a special majority of the Parliament and also with the consent of half of the state legislatures by simple majority. There is no time limit within which the states should give their consent to the bill. The following provisions can be amended in this way.

1. Election of the President of India
2. Matters related to Supreme Court and High Courts
3. Distribution of legislative powers between the Union and the States
4. Representation of the states in Parliament etc.

4.13 Significance of the Union Legislature (Parliament)

Indian Parliament is considered as the right forum for achieving social and economic equality as mentioned in the Preamble of Indian Constitution. It plays a decisive role in reflecting the hopes and aspirations of a common man, in observing the affairs of the government and in reviewing the working pattern of various ministries. Its solemn function is to formulate laws and bring about changes in them as per the interests and aspirations of the people. The Indian Parliament has enacted several laws to realize the Directive Principles of State Policy such as social justice, all round development, decentralization of authority, education for all etc. It has attained a unique place by promoting political awareness among the people and by striving for the welfare of the people through the necessary Constitutional amendments.

Summary

By studying this chapter, the student will be able to understand that the Union Legislature. The Union Legislature is the supreme law making body in India. It plays a crucial role in exercising control over the union executive, approving the Union Budget, in impeaching the persons in higher offices and in amending the Constitutional Provisions besides law making. The presiding officers of two Houses play a significant role in law making process in Union Legislature. For that the members of the Parliament are assisted by the Ministers headed by the Prime Minister. This chapter enables the student to know the functioning of Parliamentary Committees and their role of control over the finance in Indian Parliament. On the whole, a close study of this chapter makes the student to know that the Union Legislature along with union executive plays a crucial role to transforming Indian polity into a more democratic, more Parliamentary and welfaristic state.

QUESTIONS

I. Long Answer Questions

1. Describe powers and functions of the Speaker.
2. Explain the powers and functions of the Union Legislature.
3. Examine the role of Financial Committees in Parliament.

II. Short Answer Questions

1. Write about the composition of the Lok Sabha .
2. Explain the election of the Speaker of the Lok Sabha
3. What do you know about the composition and qualifications of members of the Rajya Sabha?
4. Write a note on the Chairman and Deputy Chairman of the Rajya Sabha
5. Mention any three powers and functions of Indian Parliament
6. Write a note on the types of bills.
7. Explain briefly about the stages of law-making procedure in Indian Parliament
8. What do you know about Public Accounts Committee?
9. Describe the composition and functions of Estimates Committee.

III. Very Short Answer Questions

1. Composition of Indian Parliament
2. Qualifications of Rajya Sabha member
3. Quorum of Lok Sabha
4. The Speaker of Lok Sabha
5. Deputy Speaker of Lok Sabha
6. Committee on Public Undertakings
7. Panel of Speakers
8. Pro-tem Speaker
9. Question Hour
10. Adjournment Motion
11. Whip
12. No Confidence Motion

CHAPTER 5



Union Judiciary

5.0. Introduction

5.1. The Supreme Court of India

5.2. Powers and Functions of the Supreme Court

5.3. Judicial Review

5.4. Judicial Activism

5.5. Public Interest Litigation (PIL)

5.6. Independence of Judiciary

5.7. The Attorney General of India

Summary

Questions

5.0. Introduction

Union judiciary is the third organ of the Union government. Though we have adopted a federal system, our constitution has not provided for a double system of courts as in the United States. Constitution does not mention separate State Courts in Indian Union. There is a single integrated system of courts for the Union as well as the States which administer both the Union and State Laws. Article 1 of the Indian Constitution categorically says that “India that is Bharat is a Union”. So we have unitary system in judicial administration. The structure of judiciary in India is pyramidal with the Supreme Court at the top, High Courts at the middle level and District and Subordinate Courts at the lowest level. The lower courts function under the direct superintendence of the higher courts. Under the Government of India Act 1935, for the first time an All India Court, called the “Federal Court of India” was setup. It consists of one Chief Justice and such other judges as His Majesty might deem it necessary. With the coming into force of the Indian Constitution, the Federal Court of India was substituted by the Supreme Court. Under the Federal Constitution, the Supreme Court is an essential part of the

Constitutional scheme. The Supreme Court of India is, in fact, one of the powerful courts in the world.

The very purpose of judiciary is to deliver justice on the basis of well established procedures, oral or written evidences. It follows the principle of rule of law. This principle implies that all individuals-rich and poor, men or women, forward or backward castes-are subject to the same law. The principal role of the judiciary is to protect rule of law and ensure supremacy of law. Judiciary safe guards the rights of individuals, settles disputes in accordance with the law and ensure that democracy does not give way to individual or group dictatorship. Judiciary has played an important role in interpreting and protecting the Constitution since 1950.

Judiciary has certain main functions such as interpreting the provisions of the Constitution, upholding the supremacy of the Constitution. Its functions ensure the smooth functioning of the other two organs of the government within their limits of the Constitution. It is in this context that **Lord Bryce** opined that “judiciary serves as the best test for the excellence of the government”.

5.1 The Supreme Court of India

The Supreme Court is the highest court of justice in India. The Constitution says that the judgments of the Supreme Court shall be binding on all other courts within the territory of India. The Supreme Court was designed to make it the final authority in the interpretation of the Constitution.

The origin of the Supreme Court in India can be traced back to the Regulating Act, 1773 during the british regime. Under the provisions of this Act the British Parliament established a Court for India at Calcutta (now Kolkata). It was not a federal in nature but a unified single court.

Part V of the Indian Constitution from Articles 124 to 147 deals with the composition, appointment, qualifications of judges powers and functions of the Supreme Court. Eminent members in the Constituent Assembly like Jawaharlal Nehru, Dr.B. R. Ambedkar and Dr. Rajendra Prasad played a significant role in finalizing the draft on the Supreme Court. They borrowed “Rule of Law” from Britain and “Judicial Review” from the United States. They felt the need of an integrated judicial system for the entire country.

5.1.1 Composition

Article 124 provides for the establishment of the Supreme Court. The Supreme Court consists of the Chief Justice of India and such number of other judges as is provided by the law. The Parliament is authorized to determine the number of judges in the Supreme Court. At the time of commencement of the Constitution, the Supreme Court consisted of a Chief Justice and seven other judges. At present, there are a Chief Justice and 30 other judges in the Supreme Court. There may be some Ad-hoc judges and retired judges on temporary basis in the Supreme Court.

5.1.2 Seat of the Supreme Court

The head quarters of the Supreme Court is situated at New Delhi. The Supreme Court ordinarily shall sits at New Delhi. The Supreme Court of India was inaugurated on January 28, 1950 at the chamber of the Princess in the Parliamentary Building. Harilal J. Kania acted as the last Chief Justice of the Federal Court and the first Chief Justice of the Supreme Court in India. The proceedings in the Supreme Court are followed in English language. All documents are translated into English language. All general cases are adjudicated by a Division Bench comprising two or more judges. Cases involving the Constitutional matters are heard by a Constitution bench consisting five judges. For considering special cases larger benches consisting of five or more than five judges are constituted.

5.1.3 Appointment of the Supreme Court Judges

Article 124(2) of the the Constitution stipulates in that the President shall appoint judges of the Supreme Court as he may deem necessary. The Chief Justice of Supreme Court is appointed by the President after consultation with such judges of the Supreme Court and High Courts as he may deem fit. As a convention, laid down by the Supreme Court itself the senior most judge of the Supreme Court shall be appointed as the Chief Justice. This convention was however broken twice. For example in 1973 Ajit Nath Ray was appointed as the Chief Justice of India superceding three senior judges, ie., K.A.Hegde, A.N.Grower and J.M.Shallot. Again, Justice M.H.Beig was appointed superceding justice H.R.Khanna in 1975. The tradition to appoint the senior most Judge as the Chief Justice of India was revived in 1978 by the then Janata Party Government. Consequently, the senior most judge Justice Y.N.Chandrachud was appointed as the Chief Justice in 1978. This tradition is still in vogue.

Whenever a vacancy arises in the judges of Supreme Court, the Chief Justice recommend the names of persons to be appointed in consultation with four senior most judges of the Supreme Court. Thus, the Supreme Court has established the principle of collegiality in making

recommendations for appointment of judges. If this proposal is acceptable to the Council of Ministers and approved by the Prime Minister, the President appoints them.

Whenever the office of the Chief Justice of India lies vacant due to resignation, incapacity or absence, the President appoints one of the senior judges of the Supreme Court as the Acting Chief Justice (Article 126).

Whenever there is no quorum of judges of the Supreme Court to hold or continue any session, the Chief Justice is empowered to appoint Ad-hoc judges of the Supreme Court from among the judges of High Court, having qualifications to be appointed the judges of the Supreme Court (Article 127). He can do so only with the previous consent of the President and after consultation with the Chief Justice of the concerned High Court.

The Chief Justice of India may also invite a retired judge of the Supreme Court or a retired judge of the High Court having the qualifications to be a judge of the Supreme Court, to sit and act temporarily as a judge of the Supreme Court for such a period as he deems necessary. This too can be done only with the previous consent of the President (Article 128).

Every person appointed as a judge of the Supreme Court, before he enters upon his office, takes oath before the President or some person appointed in that behalf by him in the form prescribed in the Constitution.

The Constitution prohibits the retired judges of the Supreme Court from practicing law before any court or any authority within the territory of India. But, there is no Constitutional prohibition against a retired judge being appointed for a specialized form of work by the Union Government (Article 124(6), (7)). For instance the President is appointed Sadasivan the retired Supreme Court Justice as the Governor of Kerala.

5.1.4 Qualifications

A persons to be appointed as a judge of the Supreme Court shall possess the following qualifications:

1. He should be a citizen of India
2. He should have continuously worked as a judge in one or more High Courts at least for a period of 5 years.
3. He should have continuously worked as an advocate of one or more High Courts for not less than 10 years or
4. He should be a distinguished jurist in the opinion of the President of India.

The inclusion of the last provision, which would enable the President to appoint a distinguished jurist as the Judge of the Supreme Court.

Normally those persons, who possess high moral integrity, constitutional expertise, legal acumen, social outlook, impartial attitude etc, will assume various offices in the judiciary.

5.1.5 Salary and Allowances

The Parliament, by an Act, determines the basic salary and other allowances of the Chief Justice and other judges of Supreme Court. At present the Chief Justice of India draws a monthly salary of Rs 1, 00,000 while other judges draw Rs 90,000. Besides, they are entitled to other allowances, facilities and privileges like rent-free residence, travelling expenses within the country, pension, etc. Their salaries and allowances are charged on the Consolidated Fund of India. The salaries and allowances of the judges cannot be changed to their disadvantages after their appointment.

5.1.6 Term of Office and Removal

The Constitution has not prescribed minimum age for the appointment of the judges of the Supreme Court. They have a fixed tenure. They hold office till reaching the age of retirement. The present retirement age is 65 years. So, once appointed, the Chief Justice and other judges shall continue in office till they attain 65 years of age.

Contrary to the common belief, there is no provision in our Constitution for the impeachment of a judge. The impeachment is provided for the President and none else. A judge of the Supreme Court can be removed from his position only on the grounds of proved misbehavior or incapacity. He can be removed from his office by an order of the President, after an address from each House of Parliament, supported by a majority of the total membership of that House and by a majority of not less than 2/3 votes of the members present and voting, passed.

The removal of judges of the Supreme Court is a prolonged and complex process. So far, only one case of removal resolution against Justice R.V.Ramaswamy, a judge of the Supreme Court, came up for consideration before the Parliament. In that case, though the motion got two-thirds majority, it did not get the support of the majority of the total strength of the House as the Congress party abstained from the voting in the House. Therefore, the judge was not removed. But accepting reality, Justice R.V.Ramaswamy subsequently resigned.

5.1.7 Immunities of Judges

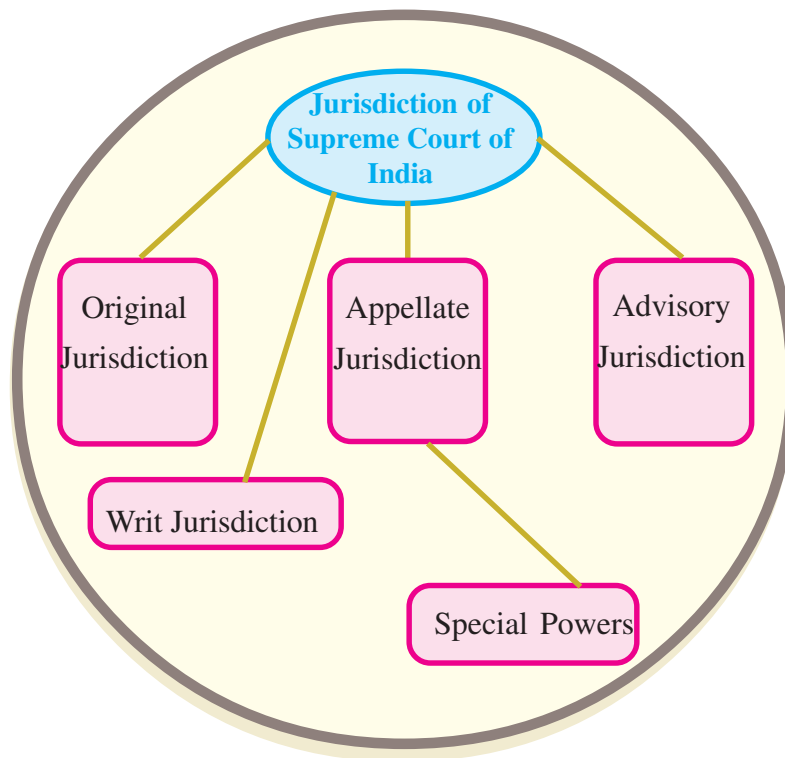
According to Article 121 of the Constitution, no discussion shall take place in the Parliament with respect to the conduct of any judge of the Supreme Court in the discharge of his duties except upon a motion of impeachment. There are legal provisions which protect the court from the criticism of the citizens. In case of an adverse comment on the functioning of the court, the Supreme Court can initiate the proceedings of contempt of the court against the offender.

Succession list of Chief Justices of India

S.No.	Name	From	To
1.	Hiralal J.Kania	26-01-1950	06-11-1951
2.	Patanjali Shastri	07-11-1951	03-01-1954
3.	Mehar Chand Mahajan	04-01-1954	22-12-1954
4.	B.K.Mukherjee	23-12-1954	03-01-1956
5.	S.R.Das	23-12-1956	30-09-1959
6.	B.P.Sinha	01-10-1959	31-01-1964
7.	P.B.Gajendragadkar	01-02-1964	15-03-1966
8.	A.K.Sarkar	16-03-1966	29-06-1966
9.	K.Subba Rao	30-06-1966	11-04-1967
10.	K.N.Wanchoo	12-04-1967	24-02-1968
11.	M.Hidayatullah	25-02-1968	16-12-1970
12.	J.C.Shah	17-12-1970	21-01-1971
13.	S.M.Sikri	22-01-1971	25-04-1973
14.	A.N.Ray	26-04-1973	27-01-1977
15.	M.H.Beg	28-01-1977	21-02-1978
16.	Y.V.Chandrachud	22-02-1978	11-07-1985
17.	P.N.Bhagwati	12-07-1985	21-12-1986
18.	R.S.Pathak	21-12-1986	18-06-1989
19.	E.S.Venkatramaiah	19-06-1989	18-12-1989
20.	Savvasachi Mukharjee	18-12-1989	25-09-1990
21.	Ranganath Mishra	26-09-1990	24-11-1991
22.	K.N.Singh	25-11-1991	12-12-1991
23.	M.H.Kania	13-12-1991	18-11-1992
24.	Lalit Mohan Sharma	18-11-1992	11-02-1993
25.	M.N.Venkatchalaiah	12-02-1993	24-10-1994
26.	A.M.Ahmadi	25-10-1994	24-03-1997
27.	J.S.Verma	25-03-1997	17-01-1998
28.	M.M.Punchchi	18-01-1998	09-10-1998
29.	A.S.Anand	10-10-1998	31-10-2001
30.	S.P.Barucha	01-11-2001	05-05-2002
31.	B.N.Kirpal	06-05-2002	07-11-2002
32.	G.B.Patnaik	08-11-2002	18-12-2002
33.	V.N.Khare	19-12-2002	02-05-2004
34.	S.Rajendra Babu	02-05-2004	01-06-2004
35.	Ramesh Chandra Lahoti	01-06-2004	31-10-2005
36.	Yogesh Kumar Sabharwal	01-11-2005	14-01-2007
37.	K.G.Balakrishnan	15-01-2007	11-05-2010
38.	S.H.Kapadia	12-05-2010	28-09-2012
39.	Altamas Kabir	29-09-2012	18-07-2012
40.	P.Sadasivan	19-07-2012	26-04-2014
41.	R.M.Lodha	27-04-2014	27-09-2014
42.	H.L. Dutt	28-05-2014	Till Date

5.2 Powers and Functions of the Supreme Court

The Supreme Court is the apex court in India. Its decisions are final and can be modified only by the Supreme Court itself. The Supreme Court of India enjoys and exercises the following types of jurisdictions:



5.2.1 Original Jurisdiction

Original Jurisdiction means the power to hear and determine a dispute in the first instance. Under this jurisdiction cases can be directly considered by the Supreme Court without going to the lower courts. Original Jurisdiction of the Supreme Court extends to disputes between:

1. the Government of India and one or more states
2. the Government of India and one or more states on one side and one or more States on the other
3. among two or more states

This point shows that cases involving federal relations go directly to the Supreme Court. So the Original Jurisdiction establishes the Supreme Court as an umpire in all disputes regarding federal matters. In any federal polity, legal disputes are bound to arise between the Union and

the States and among the states themselves. Article 131 of Indian Constitution confers the Original Jurisdiction upon the Supreme Court to resolve such cases. It is called Original Jurisdiction because the Supreme Court alone has the power to deal with such cases. Neither the High Courts nor lower courts can deal with such cases. In this capacity, the Supreme Court only just settles disputes but also interprets the powers of the Union and State governments as laid down in the Constitution.

It may be noted that the above jurisdiction shall not extend to a dispute arising out any treaty, agreement, covenant or similar document. In fact, the treaties and agreements executed before January 26, 1950 are covered by the Advisory Jurisdiction of the Court. The disputes arising out of such treaties are decided by the President on the basis of advisory opinion of the Supreme Court.

5.2.2 Appellate Jurisdiction

The Supreme Court acts as the highest court of appeal in India. Appellate Jurisdiction means the power and jurisdiction of the Supreme Court to entertain appeals against the decisions of the lower courts, i.e., High Courts.

A person can make appeal to the Supreme Court against the decisions of the High Court when he feels proper justice is not done to him. The Appellate Jurisdiction of the Supreme Court, can be is divided into the following four heads:

1. Constitutional matters
 2. Civil matters
 3. Criminal matters
 4. Appeal by special leave
1. The Supreme Court hears appeals over on the matters involving a substantial question as to the interpretation of the Constitution. The Supreme Court hears such a case on the certificate, to that extent, by the High Court. Sometimes the Supreme Court can take up the appeal directly if it is satisfied that the case involves the interpretation of the Constitution.
 2. In civil matters, an appeal lies to the Supreme Court from any judgment of a High Court if a High Court certifies – a) that the case involves a substantial question of law of general importance; and b) that the question needs to be decided by the Supreme Court. Originally only those civil matters involving of Rs.20,000/- could be appealed before the Supreme Court. But this monetary limit was removed by the 30th Constitutional Amendment Act of 1972.

3. In criminal matters, the Supreme Court hears appeals on any judgment, whether they are in the form of final order or sentence of the High Court. It hears two specified cases namely - (a) where the High Court has on an appeal from lower court reversed an order of acquittal of an accused and sentenced him to death and (b) where the High Court has withdrawn for trial before itself any case from any subordinate court to its authority and has in such trial convicted the accused person and sentenced him to death.
4. The Supreme Court has discretionary power to grant special leave of appeal from any judgment in any matter passed by any court or tribunal in the country. (except military tribunal and court marshal) The provisions related to this special leave petition are mentioned in Article 136 of the Constitution. This provision comprises the following four aspects.
 - i. It being a discretionary power, cannot be claimed as a matter of right.
 - ii. It can be granted in any judgment whether final or interlocutory
 - iii. It may be related to any matter – constitutional, civil, criminal, income tax, labour and revenue etc.
 - iv. It can be granted against any court or tribunal not necessarily against a High Court.

5.2.3 Advisory Jurisdiction

The Supreme Court of India has some Advisory Jurisdiction. They are provided in Article 143 of the Constitution. The President may seek the opinion of the Supreme Court on any question of law or fact of public importance. After such reference from the President, the Supreme Court may report to the President its opinion there on. The President may also seek the opinion of the Supreme Court on any treaty and agreement that had been entered into or executed before the commencement of the constitution, and has continued in operation thereafter. These are excluded by Article 131. However, the Supreme Court is not bound to render advice on such matters and the President is not bound to accept such an advice.

One may immediately question about the utility of the advisory powers of the Supreme Court. The utility is twofold. In the first place, it allows the government to seek legal opinion on a matter of importance before taking action on it. This may prevent unnecessary litigations later. Secondly, in the light of the advice of the Supreme Court, the government can make suitable changes in its action or legislations.

5.2.4 Court of Record

According to Article 141, Supreme Court acts as Court of Record. In this context it shall have all the powers of such a court including the power to punish for contempt of itself. Being the highest court of the land, its proceedings, acts, and judgments are kept in record for perpetual memory and further verification and reference. All the judgments and judicial proceedings of the Supreme Court shall be treated as a model and guide to all other courts in hearing similar cases in future. They can't be questioned for their authenticity in any court of law. The Supreme court can punish anyone for contempt of itself. This is a sumtuary power used sparingly and under pressing circumstances. It does not inhibit genuine and well intended criticism of court and its functioning. Fair and reasonable criticism of a judicial act in the interest of public good does not constitute contempt. As stated by Dr.B.R.Ambedkar, "the Court of Record is a court whose decisions and proceedings have legal value and is recognized as legal precedent and legal reference".

5.2.5 Writ Jurisdiction

The word 'writ' literally means 'order' in written form. Article 32 of our Constitution confers authority upon the Supreme Court, to issue a constitutional writ for the enforcement of Fundamental Rights of the citizens. Any person, whose fundamental rights have been violated, can directly move the Supreme Court for remedy. The Supreme Court issues Habeas Corpus, Mandamus, Prohibition, Quo-Warranto and Certiorari, for enforcing the fundamental rights.

- i. Habeas Corpus:** Literally means '*to have the body of*'. It is issued by the court to affect the release of a person who has not been detained legally. Under this writ the court issues orders to the concerned authority to produce the person before the court. The failure to abide by the writ order is met with punishment for contempt of court.
- ii. Mandamus:** It means '*we command*'. The writ is a command issued by the court to a public official to do a duty which he has failed to do. This writ cannot be issued against private persons.
- iii. Prohibition:** It means '*to forbid*'. It is issued by a higher court to a lower court to prevent the latter from exceeding its jurisdiction that it does not possess. This writ can be issued only against judicial and quasi-judicial authorities.
- iv. Certiorari:** It means '*to be certified*' or '*to be informed*'. This writ is issued against the lower courts by the Supreme Court or High Courts, if the lower former courts violate their jurisdiction.

- v. **Quo Warranto:** It means ‘by what authority’ or ‘warrant’. If the court finds that a person is holding a public office which is not entitled to hold that office, it issues this writ for restricting that person from acting in that office. This writ is also not issued with respect to the private offices.

Besides the above, many other mechanisms have been established for protecting human rights. The National Commission for Women, the National Commission for Scheduled Castes & Scheduled Tribes, the National Human Rights Commission etc are some examples in this regard.

5.2.6 Other Powers

Besides the above, the Supreme Court has numerous other powers:

1. The Supreme Court acts as the custodian of the Fundamental Rights of Indian citizens
2. It is the ultimate interpreter of the Constitution.
3. It formulates rules necessary for proper maintenance of records and also for the purpose of practice by the advocates in the country.
4. The Chief Justice of the Supreme Court acts as the President of India for a temporary period under certain special circumstances.
5. The Supreme Court, on the orders of the President, enquires on the conduct and behavior of the chairman and members of U.P.S.C and S.P.S.Cs.
6. The Judges Supreme Court may be appointed as the head of special committees constituted by the governments.
7. It hears election disputes of the President and the Vice-President of India.
8. The Supreme Court at times provide guidelines to the Election Commission of India

5.3 Judicial Review

Judicial Review is perhaps the most important power of the Supreme Court. The purpose of Judicial Review is to maintain the supremacy of the Constitution. There is no explicit mention of Judicial Review in the Indian Constitution. The higher courts derive this power from the provisions of Article 13 of the Constitution. This Article empowers the Supreme Court to validate those laws and executive orders which infringe upon the Fundamental Rights. The makers of our constitution adopted this concept from the American Constitution keeping in view the written nature of the Indian Constitution and federal character of Indian polity.

Judicial Review means the power of the Supreme Court or High Courts to examine the Constitutional validity of the legislative enactments and executive actions of both Central and State Governments and to declare them '*null and void*' if found repugnant of the provisions of the Constitution. As *M. V. Pylee* stated, "Judicial Review is the competence of a court of law to declare the Constitutionality or otherwise of a legislative enactment".

Article 13 declares all laws that are inconsistent with or disrespectful of the fundamental rights, or void to the extent of their inconsistency. Hence, the Supreme Court being responsible for protecting fundamental rights, can declare any legislative act or executive decision that is inconsistent with provisions on fundamental rights as *ultra vires* or *null and void*, meaning unconstitutional and inapplicable. Besides, in case of federal relations, the Supreme Court can avail this power if a law is inconsistent with the provisions concerning the distribution of powers between the governments as laid down by the Constitution.

In this context the Supreme Court and High Courts reviews legislations on the grounds that (a) they violate fundamental rights or (b) they violate the federal distribution of powers. The Supreme Court's power of Judicial Review extends to the (i) Laws passed by the union and state legislatures, (ii) Executive actions of the union and the states, (iii) Decisions of the public sector undertakings and (iv) Constitutional Amendments. The Supreme Court for the first time utilized this power in 1950 itself by declaring Section 14 of the Preventive Detention Act as unconstitutional.

It may be noted that the Supreme Court of India is prominent in the world by exercising the power to determine the validity of the Constitutional Amendment Acts. However, Judicial Review is inevitable due to the following reasons.

1. The Supreme Court has to uphold the supremacy of the Constitution.
2. It has to maintain the federal equilibrium.
3. It has to protect the fundamentals rights of the citizens.

Apart from the above, the power of Judicial Review is a resultant of the position of the Supreme Court as the guardian of the Constitution. As such it has the final say in interpretation of the Constitution and by such an interpretation, the Supreme Court has extended its power of Judicial Review to almost all the provisions of the Constitution.

5.3.1 Criticism

The power of Judicial Review has come under severe criticism on the following grounds.

1. Judicial Review violates the supremacy of the Parliament and the spirit of democracy.
2. The Supreme Court has adopted either too radical or too conservative approach in the interpretation of various law, introduces the element of uncertainty in legal matters.
3. Judicial Review has created frictions between judiciary and Parliament.

In spite of the above criticism, Judicial Review has played a very significant role in protecting the dignity and supremacy of the Constitution. It helped to impart a new meaning to the Constitution according to the changing conditions. It ensured freedom to citizens by protecting their Fundamental Rights against the undue encroachment by the legislative and executive authorities. The judgment of the Court under the Judicial Review has proved a sign of socio-economic changes in the society. At present, the philosophy of the court seems to be the maintenance of social justice, public interest and welfare. This probably is the reason why the court is criticized of the liberal or conservative in its interpretation of law. In India, the principle of supremacy of the Constitution is accepted and implemented. The appropriate course is to strike a balance between the powers of both the Supreme Court and the Parliament, so that these two pillars of Indian Democracy may function in perfect harmony and strengthen the roots of Indian Democracy.

5.3.2 Review of its own Judgments

The Supreme Court is empowered to review its own judgments according to the changing conditions. It can uphold, modify or nullify its previous judgments. For instance, while pronouncing its judgment in *Golak Nath Vs State of Punjab Case* in 1967, the Supreme Court declared that the Parliament has no power to amend any provisions of the Fundamental Rights of Indian citizens. It, however, reversed this judgment in 1973 in the context of the *Kesavananda Bharati Case*. It affirmed that the Parliament has authority to change any of the provisions of the Constitution including the Fundamental Rights. Similarly, in many other cases like (a) *Maneka Gandhi (Passport) Case* (1978) and (b) *Minerva Mill Vs Union of India Case* (1980), it has reversed its previous judgments. The Supreme Court had recently expressed that its judgments will be reconsidered on rare occasions as it was its moral duty to rectify the errors in its earlier judgments.

5.4 Judicial Activism

Generally, Judicial Activism is construed to be the over willingness of the judiciary to jump into the arena of executive or legislative functions. Judicial Activism, in fact, is not a distinctly separate concept from usual judicial activities. In general parlance, the expression “activism” means “being active”, “doing things with decision” and the expression “activist” should mean “one who favours intensified activities”. In this sense every judge is an activist. As justice Krishna Iyer observed “every judge is an activist either on the forward gear or on the reverse”. Hence, Judicial Activism is shaping of the basic law through bold acts.

Judicial Activism is a policy making in competition with policy making by legislature and executive. The essence of true Judicial Activism is rendering of decisions which are in tune with the temper and tempo of the times. The nature of Judicial Activism is that it furthers the cause of social change or articulates concepts like liberty, equality or justice. Judicial

Activism counters the traditional concept of judiciary as a mere umpire. On the contrary, it works as an active catalyst in the Constitution scheme. It has to be an arm of the social revolution. An active judge activates the legal mechanism and makes it play a vital role in socio-economic process.

According to *Rajeev Dhawan*, “Judicial Activism is simply ensuring the systematic enforcement of court orders and the rule of law while Justice Activism is the power of the judges to interpret and by force of circumstances create law”.

Judiciary, which is an institution that traditionally confined to responding to cases brought before it, began considering many cases merely on the basis of news paper reports and postal complaints received by the court. But most of the cases of Judicial Activism have occurred through Public Interest Litigations in the sphere of public health, child labour, environment, corruption etc. Therefore, the Judicial Activism became the most popular description of the role of judiciary.

5.4.1 Causes for Judicial Activism

The following are the causes for the emergence of Judicial Activism in India:

1. Expansion of the rights of hearing in the administrative process
2. Excessive delegation without limitation
3. Judicial Review over administration
4. Promotion of open government
5. Indiscriminate exercise of contempt of power
6. Exercise of jurisdiction when non-exist
7. Over extending the standard rules of interpretation in its search for socio-economic and educational objectives
8. Breakdown of other machinery of the government

5.4.2 Judicial Activism in India

An activist judge should keep in mind the nature of the Constitution. Indian Constitution is not only a legal document but also a socio-political document, a repository of the values and aspirations of the people. The very objective of the Indian Constitution is to establish an egalitarian society. In this regard, the Preamble of the Constitution declares - social, economic and political rights to everyone, and equality of status, and opportunity to all. In order to achieve the objectives and goals of the Constitution, Fundamental Rights are guaranteed to the

people. The Directive Principles of state policies are fundamental in the governance in the country and it shall be the duty of the state to apply these principles in making various laws from time to time.

It is the collective responsibility of the legislative, executive and the judiciary to accomplish the goals of the Constitution. Social Justice is the prime goal of the Constitution. Judiciary plays a vital role in achieving this goal. In order to meet the basic needs of the poor the oppressed and suppressed classes of the society, the Supreme Court entertains and also encourages the Public Interest Litigation (PIL) in its expanded role of Judicial Activism. As a result the apex court has evolved, developed new techniques, discovered and applied new remedies for violation of Fundamental Rights, and attempted to fill the vacuum arising out of executive and legislative inaction.

Due to the negligible attitude of the legislature and lack of edicts from the executive, the vulnerable classes of the society are sometimes denied social justice. In such circumstances, Social Action Groups, Civil Liberties Organizations, Voluntary Organizations etc., have come forward to their rescue through Public Interest Litigation. As Chief Justice *A.S.Anand* remarked that “the expanded concept of Public Interest Litigation by judicial interpretation from time to time has expanded the judicial limits of the courts exercising Judicial Review. This expanded role has been given the title of Judicial Activism by those who are critical of this expanded role of the Judiciary”.

5.4.3 Merits and Demerits

Judicial Activism has manifold **positive** impact on the political system. It comprises the following merits.

1. Judicial Activism has democratized the judicial system by giving, access to the courts not just to individuals but also to groups.
2. It has enforced executive accountability
3. It made an attempt to make the electoral system more free and fair
4. It is due to the impact of Judicial Activism during elections the candidates who tender affidavits disclosing their assets, income, educational qualifications, criminal record etc. This enable the people to elect better candidates.

Judicial Activism has some negative shades. It is inherent with the following demerits.

1. Judicial Activism has blurred the line of distinction between the executive and legislature on the one hand and the judiciary on the other hand.

2. Some felt that Judicial Activism led to the worsening of relations and balance among the three organs of government.
3. Democracy is based on the principle that each organ of government will respect the powers and jurisdiction of others. But Judicial Activism may negate this democratic principle.

Chief justice *A.M. Ahamadi* opined that “Judicial Activism has been more or less thrust up on Indian Judiciary”. The reluctance of the legislature and the executive to take decisions that are hard and unpleasant to them, have compelled the judiciary to become active. When a sensitive issue remains unattended to or unresolved, people become restive and seek the court to come across with a solution. However the era of Judicial Activism is a temporary one. In our democratic system legislature, executive, judiciary and media have their mutually reinforcing roles which cannot be usurped by a single authority.

5.5 Public Interest Litigation (PIL)

The institution of Public Interest Litigation originated in USA during the mid 1960s. PIL or Social Action Litigation is an offshoot of liberalized rules of *locus-standi*. The traditional rule of *locus-standi* was based on the fact that judicial remedy can be sought only by those who have suffered an injury on account of violation of legal right by some public authority. The PIL choose liberalize this rule by making it clear that any person who suffer an injury but is unable to reach the court can take help of public-minded citizens to reach the court to seek justice.

Public Interest Litigation Movement in India emerged during post-emergency years intending to make the judicial system accessible to the socially and economically lower sections of the society. In most of cases, Judicial Activism has occurred through public interest litigation. In public interest litigation any person or group can approach the Supreme Court and High Court for the redressal of grievances on behalf of the victim or victims who were incapable of approaching the court. Under this new arrangement, a destitute citizen can file a writ petition even through a simple letter written on the post card. This derives authenticity from the “right to be heard” as implied by Article 32 of the Constitution. But the court has to ensure that the petitioner who approaches the court with PIL, is acting bona-fide and not for personal gains private profit, political or other oblique considerations. The court should not allow this process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective.

5.6 Independence of Judiciary

It is already learnt that the role of the judiciary is to protect Rule of Law and ensure supremacy of law. It safeguards the rights of individual and settles disputes in accordance with the law it ensures the democracy does not give way to individual or group dictatorship in order to able to do all this, it is necessary that the judiciary is independent of any political pressure.

Independence of the judiciary does not imply arbitrariness or absence of accountability. Judiciary is a part of the democratic political structure of the country. It is, therefore, accountable to the Constitution, to the democratic traditions and people of the country. The following measures have been taken to secure the independence of Judiciary in India.

Measures ensuring for Independence of Judiciary

1. The Legislature is not involved in the process of appointment of judges. Thus, it is believed that party politics would not play a role in the process of appointments. In order to be appointed as judge, a person must have experience as a advocate and / or must be well versed in law. Political opinion of the person or his/her political loyalty should not be the criteria for appointments to judiciary.
2. The judges have a fixed tenure. They hold office till reaching the age of retirement. Only in exceptional cases judges may be removed as per the procedure prescribed in the Constitution. This measure ensures that judge could function without fear or favor.
3. The Judiciary is not financially dependent on either the executive or legislature. The Constitution provides that the salaries and allowances of the judges are not subjected to the approval of the legislature.
4. The actions and decisions of the judges are immune from personal criticism. The judiciary has the power to penalize those who are found guilty of contempt of court. This authority of the court is seen as an effective protection to the judges from unfair criticism.
5. Judiciary in India is neither a branch of the executive nor a hand-made of the legislature. It has an independent identity under the Constitution.
6. Our Constitution prescribes specific and high qualifications for the judges. Thus, only those persons who have specific qualifications and experience as prescribed by the Constitution can be appointed as Judges of Supreme Court.
7. Security of the service for the Judges is an essential quality for securing the independence of Judiciary. No Judge can be removed from the office except by impeachment and only on the grounds of proven misbehavior or incapacity.
8. The Judiciary in India enjoys the vast jurisdiction. It is no way subordinate to the other organs of the government. Its decisions bind all. Such a powerful position helps the Judiciary to maintain its independence.

Thus, the Constitution of India incorporated several features which are considered essential for the preservation of Independence of Judiciary. In fact, Independence of Judiciary is a salient feature of the Indian Political System.

5.7 The Attorney-General of India

Article 76 of our Constitution provided for the office of the Attorney General of India. The Attorney General is the highest law officer of the Union Government. He is appointed by the President. He holds the office during the pleasure of the President. He is entitled to all privileges and immunities allowed to a Member of Parliament. When he attends sessions of the House, he occupies a seat on the treasury government benches.

5.7.1 Qualifications

The Attorney General of India possess the same qualifications that are necessary for a judge of the Supreme Court. They are as follows

1. He must be a citizen of India.
2. He must have served as a judge in some High Courts for a period of at least five years.
3. He must have served as an advocate in some High Courts for a period of at least ten years.
4. He must be a distinguished jurist in the opinion of the President.

5.7.2 Pay and Allowances

The Attorney General of India is paid not a salary but a remuneration that is determined by the President. The remuneration of Attorney General is equal to salary of a judge of the Supreme Court.

5.7.3 Removal

He may quit his office by submitting his resignation to the President. He can be removed by the President in case a special address is passed charging him with 'proved misbehavior' or 'incapacity' by each House of Parliament with its absolute majority and with two-thirds majority of the members present and voting.

5.7.4 Powers and functions

The Constitution assigned some specific powers and functions to the Attorney General of India. They are mentioned as follows:

1. The Attorney General of India render advice to the Union Government upon such legal matters which are referred to him by the President.
2. He performs such other functions of legal character that are assigned to him by the President from time to time.

3. He discharges the functions conferred on him by the Constitution or any other laws.
4. He appears in any court of law on behalf of the Union Government in all cases.
5. He represents the government in any reference made by the President to the Supreme Court.
6. He appears in any High Court on behalf of the union government.

The Attorney General of India can carry on his private practice. But he cannot plead against the Union Government of India. Though is not a member of the Parliament he enjoys the right to attend and speak in the Parliamentary deliberations and meetings, without a right to vote. He sits in the Treasury Benches in the two Houses of Parliament.

Summary

The Constitution of India provides for an integrated and independent judiciary. There is only one judicial system for the whole country. It is organized in a hierarchical manner with running from the Supreme Court at the top and High Courts at the middle and subordinate courts at the lower rungs levels. The Supreme Court functions will not act as a federal court as is in other federal countries. It will have jurisdiction over the Union and the State laws. Its jurisdiction extends to the entire territory of India. It enjoys vast powers and performs various functions in safeguarding the Constitutional values, democratic norms and Fundamental Rights of the citizens. The power of Judicial Review and the power to interpret the Constitution are the most vital powers conferred upon the Supreme Court. By utilizing the power of Judicial Review the Supreme Court plays a decisive role in restraining the legislature and the executive from making unconstitutional laws and tyrannical decisions that infringe the Fundamental Rights of the Indian citizens. With the help of its power to interpret the Constitution, it delivered some historical judgments that vary from pointing out the misdeeds of the legislators and from environmental protection to the educational and economic interests of the street children. It serves as the foremost protector of the freedom of the Press and the rights of minorities and the oppressed sections in the country. By allowing public interest litigation it encouraged public spirited individuals and social organizations to come to the service of the poor, helpless and exploited people so that their fundamentals rights are protected. Through Judicial Activism the courts mend their traditional procedure and opened the doors of the judiciary to all those deprived and distressed people who are incapable of approaching the courts through formal judicial procedure. As such, the judiciary in India reposes the public confidence on its commitment to the justice and the Constitution. The Indian judiciary enjoyed independence in its functioning except during emergency.

QUESTIONS**I. Long Answer Questions**

1. Write an essay on the Supreme Court of India
2. Explain the powers and functions of the Supreme Court of India
3. Describe Judicial Review.
4. What is Judicial Activism? What are its merits and demerits?

II. Short Answer Questions

1. Write about the composition of the Supreme Court
2. Mention any two jurisdictions of the Supreme Court
3. What are the powers of Appellate Jurisdiction of the Supreme Court?
4. Explain the Advisory Jurisdiction of the Supreme Court
5. Write about the Writ Jurisdiction
6. Describe Judicial Activism in India
7. What is meant Public Interest Litigation
8. What is the meaning of independence of Judiciary? How is it ensured by the Constitution?
9. What are the powers and functions of the Attorney- General of India?

III. Very Short Answer Questions

1. Qualifications of Judges of Supreme Court
2. Removal of the Judges of Supreme Court
3. Judicial Review
4. Court of Record
5. Judicial Activism
6. PIL
7. Independence of Judiciary
8. Habeas Corpus
9. Seat of the Supreme Court
10. Writs

CHAPTER 6



State Executive

- 6.0 Introduction
- 6.1 State Executive
- 6.2 The Governor
- 6.3 Powers and Functions
- 6.4 The Chief Minister
- 6.5 Powers and Functions of the Chief Minister
- 6.6 Relationship of the Chief Minister with Governor
- 6.7 Position and Significance of the Chief Minister
- 6.8 The State Council of Ministers
- 6.9 Powers and Functions of State Council of Ministers
- 6.10 Position of the State Council of Ministers
- 6.11 Relationship between the Governor and the State Council of Ministers
- Summary
- Questions

6.0 Introduction

The Constitution of India provides for a federal government, having a separate system of administration for the Union and its units, namely, the States. It lays down that the Governor of the State shall act as the Constitutional and nominal head of the state executive. The real executive powers shall be exercised by the State Council of Ministers headed by the Chief Minister. The Constitution in Part VI prescribes a uniform structure of the State Governments excepting the State of Jammu and Kashmir, which enjoys a special status and has a separate Constitution for its governance.

Broadly speaking, the pattern of Governance in the States is the same as that of the Union, namely, a Parliamentary System. In Parliamentary system, the executive head is a Constitutional ruler who acts according to the advice of Council of Ministers. He is responsible to the State Legislature except in the matters of discretionary powers. The state Council of Ministers is the real executive at the state level.

Articles 152 to 237 of Indian Constitution deal with the provisions relating to the composition, organization, powers and functions of the State Government. All the 29 States in our

country are administered according to the conventions of the Cabinet system. Accordingly there are two types of executive heads namely the Governor is the nominal executive head, the Chief Minister will act as the real executive head.

The Governor appointed by the President. The appoints the Chief Minister. The Governor also appoints the members of the council of ministers on the recommendations of the Chief Minister. The Chief Minister will be the leader of the majority party in the State legislative assembly.

6.1 State Executive

Articles 153 to 167 deal with the matters of the State Executive. The State Executive consists of (a) the Governor (b) the Chief Minister and (c) members of the State Council of Ministers. In our Parliamentary system Governor is the titular or Constitutional Head of the State. The Chief Minister is the real executive head of the Government. The Chief Minister and the Ministers being represents the people. They have collective responsibility to the Popular House i.e. Legislative Assembly directly and to the people indirectly. This chapter explains about all these matters concerning the State Executive which is the pivot of the state administration.

6.2 The Governor

The administration of a State is carried on in the name of the Governor. The executive powers of the state are vested in the Governor. Article 153 of the Indian Constitution provides for an office of the Governor in the States. There is no office of Vice-Governor in the State like that of Vice-President at the Centre. The Governor is the Chief Executive Head of the State. But like the President, he is a nominal executive head. The Governor also acts as an agent of the Central Government. Therefore, the office of the Governor has a dual role. Usually, there is a separate Governor for each State but the Constitution Amendment Act of 1956 facilitates the appointment of the same person as Governor for one or more states. Under this provision, at present the states of Telangana and Andhra Pradesh have the same person as Governor.

6.2.1 Qualifications

Article 157 of our Constitution lays down the following qualifications for the appointment of a person as a Governor.

1. He shall be a citizen of India
2. He should have completed the age of 35 years

Further the Constitution lays down the following conditions for the Office of the Governor.

1. He should not be a member of either House of Parliament or State Legislature
2. He should not hold any other Office of Profit
3. He should not be an insolvent declared by any Court of Law

6.2.2 Appointment

The Governor is neither directly elected by the people nor indirectly elected by a specially constituted electoral college as is the case with the President. He is appointed by the President by warrant under his hand and seal. In a way he is a nominee of the Government. In this context the Supreme Court in one of its judgments delivered in 1979 held that the Governor of the state is not an employee of Union Government. It further held that it is an independent Constitutional office and is not under the control of the Union Government. The original proposal in the Draft Constitution was to have elected Governors. But after a detailed and elaborate discussion in the Constituent Assembly in regard to the appointment and election of the Governor, it was decided to choose appointment of the Governor. This method was adopted with the conviction that the stability and unity of the Governmental machinery of the Country as a whole could be achieved only by adopting the system of nomination.

The framers of our Constitution opted for Canadian model in the appointment of the Governor. The President appoints the Governor on the advice of the Prime Minister. In this context the President generally follows two conventions which are mentioned below for the appointment of the Governor.

1. Consulting the Chief Minister of the concerned State
2. Choosing an eminent person not belonging to the concerned State.

However, the above two conventions have been violated in some of the cases. The Sarkaria Commission emphasized the need for appointing non-controversial and eminent persons belonging to the minority sections as Governors. It suggested that politically non-active persons be the right choice for Governor's Position. The present trend is that retired senior bureaucrats, military heads and leaders backed by politicians are being appointed as the Governors. It has become almost a common practice that the persons belonging to the party or coalition in the Union Government are appointed as the Governors. Hence it is criticized that appointment of the Governors have become a venue for political employment of the unsuccessful in the popular verdict.

6.2.3 Pay and Allowances

The emoluments, allowances and privileges of the Governor shall be determined by an Act of Parliament. As a result there is uniformity in the emoluments of the Governor all over the Country. When the same person is appointed as the Governor of two or more States, the emoluments and allowances payable to him shall be allocated among the States in such proportion as determined by the President of India. His emoluments and allowances shall not be diminished during his term of Office.

At present, the Governor is entitled to receive a monthly salary of Rs.1,10,000/-. He resides in official rent-free building 'Raj Bhavan'. Besides, he is entitled to many other allowances and privileges. His pay and allowances are charged on the Consolidated Fund of the State.

6.2.4 Oath of Office

The Governor shall take Oath or Secrecy of Office to preserve, protect and defend the Constitution and the Law. The Chief Justice of the State High Court administers the Oath of Office to the Governor.

6.2.5 Tenure

The Governor holds office as a convention for a term of five years from the date on which he assumes his office. There is no bar for second term. However, he holds office during the pleasure of the President which in turn is the pleasure of the Prime Minister. The Governor has no security of tenure. He may be removed or transferred by the President at any time. The Governor can resign by writing a letter of resignation addressed to the President. However, he continues to hold Office till the new Governor assumes his Office. The Chief Justice of the concerned State High Court serves as the acting Governor when there is a casual vacancy to the office of the Governor.

6.2.6 Removal

The Constitution of India prescribes no process of impeachment or any other method of removal of the Governor, since he holds office during the pleasure of the President. When he loses pleasure of the President he may be removed according to the Constitutional provisions. This provision is being misused frequently to satisfy the political interests of the Union Government.

In the B.P.Singhal Vs Union Government case (May-2010) the Constitution Bench of Supreme Court pronounced that the Governor cannot be removed from his Office on petty reasons. It clarified that he could be removed only on specific allegations which have to be proved.

6.2.7 Immunities

Our Constitution provides certain Legal Immunities to the Office of the Governor to enable him to discharge his Constitutional functions in a free and fair manner, to ensure the State Government works constitutionally. He shall not be held responsible for any act done or purporting to have been done in his official capacity. No criminal proceedings can be initiated against the Governor during his term of office. No proceedings for his arrest or imprisonment can be taken by any Court of Law. However, civil proceedings in respect of an act done by the Governor in his personal capacity can be initiated after the prescribed statutory notice.

6.3 Powers and Functions of the Governor

The Governor exercises six important powers and functions. They are explained as follows:

1. *Executive Powers and Functions*

Article 154 of our Constitution vests the Governor with the executive powers of the state. The Governor exercises these powers either directly or through Officers subordinate to him. In the Cabinet System of Governance, all executive actions of the government of the state are formally taken in the name of Governor. The Governor may make rules for the convenient transaction of the business of the State Government. On the whole Governor has the following executive powers.

1. The Governor appoints, the Chief Minister and the members of the Council of Ministers on the advice of the Chief Minister
2. He allocates Portfolios among the ministers and reshuffles their portfolios
3. He removes the Ministers on the advice of the Chief Minister
4. He appoints the Vice-Chancellors of the Universities in the State. He acts as the Chancellor of the universities.
5. He appoints the Chief Secretary and Advocate General of the State Government.
6. He appoints the Chairmen and other members of the State Commissions such as a) State Public Service Commission, b) State Election Commission, c) Official Language Commission, d) Commission for Women, e) Minorities Commission, f) Backward Classes Commission and g) SC& ST Commission.
7. He regulates the postings and transfers of the All India Services personnel working in the state.

2. *Legislative Powers and Functions*

Article 168 describes that the Governor is an integral part of the State Legislature. In that capacity he exercises certain powers and performs functions related to the State Legislature.

1. The Governor inaugurates the first sessions of the State Legislative Assembly after the general elections are over.
2. He also addresses the first session of State Legislative Assembly every year i.e. budget session.
3. He appoints Pro-tem Speaker of the State Legislative Assembly.
4. He summons and prorogues the sessions of the two Houses of the State Legislature.
5. He addresses the Members of the state Legislature and sends messages in relation to the state legislature.
6. The Governor gives his assent to the bills passed by the state Legislature.
7. He may return a bill sent by the state Legislature for its reconsideration.
8. He may order for special sessions of the state Legislature on some important occasions such as visit of foreign dignitaries or to test the majority of the Council of Ministers etc.
9. He dissolves the State Legislative Assembly when he feels no party is in a position to form a stable and viable Government and the advice of the Chief Minister.
10. He may promulgate Ordinances to meet an emergency which require immediate action during the recess of the State Legislature.
11. He decides on the question of disqualification of Members of the State legislature in consultation with the Election Commission.
12. He nominates members of Anglo-Indian community to the Legislative Assembly of the state if he feels that community is not represented in the house.
13. The Governor nominates 1/6 of the total members of the State Legislative Council.

3. Judicial Powers and Functions

The Governor also exercises the following judicial powers and functions.

1. The Governor renders advice to the President of India in the appointment of Chief Justice and other judges of the High Court of the State.
2. The Governor appoints the Advocate General of the State.
3. He makes appointments, postings and promotions of the District Judges in consultation with the Chief Justice of High Court of the State.
4. He also appoints persons to the judicial services of the state (other than the district courts) in consultation with the Chief Justice of High Court and State Public Service Commission.
5. He can grant pardon, retrieve, remit and commute the sentence of any person convicted of any offence against any law of the concerned state.

4. Financial Powers and Functions

The Governor will have the following powers and functions of financial nature.

1. The Governor sees that the Annual Financial Statement (i.e., Budget) is laid before the State Legislature
2. No Money bill shall be introduced in the State Legislative Assembly without the prior permission of the Governor.
3. No Demand for Grant can be made except on his recommendation.
4. He maintains the Contingency Fund of the State. He can make advances out of the Contingency Fund to meet any unforeseen expenditure.
5. He constitutes a Finance Commission for every five years to review the financial position of village Panchayats and Municipalities.
6. He sees that reports of various financial committees are laid before the State Legislature.

5. Miscellaneous Powers and Functions

The Governor receives the Annual Report of the State Public Service Commission and passes it on to the Council of Ministers for comments. Thereafter, he passes on the report on these comments to the Speaker of the Assembly for placing it before the legislature. He receives the report of the Auditor-General regarding income and expenditure made by different departments working under the State Government. On behalf of the President, he runs the administration as the real head of the state through the enforcement of law and policies during the period of President's Rule.

6. Discretionary Powers

Under Article 163(1) of the constitution the Governor has some discretionary powers which are discharged by him. His decisions in this regard are final. These are mentioned as below.

1. Playing a decisive role in appointing the new Chief Minister in a situation when no single party has a clear majority in the state Legislative Assembly.
2. Dismissing a Ministry when it refuses to resign even after losing majority support in the House.
3. Dissolution of the Assembly on the advice of the Chief Minister who lost the majority members support.
4. Rendering advice to the President for the imposition of the President's Rule in the State.
5. Reserving a Bill for the consideration and approval of the President.
6. Seeking instructions from the President before promulgating ordinance on some important matters.
7. Sending back a bill passed by the state legislature for its reconsideration, except money bills.
8. Seeking information from the Chief Minister with regard to the administrative and legislative matters of the State

Special Responsibilities of Governor

The Governor has certain special responsibilities to discharge according to the directives issued by the President under Articles 371(2) 371(A)(1)b, 371(c) in case special responsibility, though the Governor is to consult the council of ministers the final decision shall be in his individual judgment which no court can question.

The Governors of Assam, Maharashtra, Gujarat, Nagaland, Manipur and Sikkim have special responsibility on specific matters related to their respective States. For example, 1. The Governor of Assam shall, in his discretion determine the amount payable by the state of Assam to district council as the royalty accruing from licences of minerals decides the amount of money received from mineral resources and which has to be allocated to the District Council. 2. The Governors of Gujarat and Maharashtra have special responsibility for the development of the regions of Saurashtra and Vidarbha respectively. 3. The Governor of Nagaland has a responsibility to maintain peace and order in the State. 4. The Governor of Sikkim has the special responsibility to take effective measures for the socio-economic progress of the people of the state.

Differences between the Position and the Powers of the Governor and the President

Position and Significance of Governor

Governor	President
1. The Governor is a nominated person	1. The President is an elected person
2. He has no security of Tenure. His Tenure depends upon the Pleasure of the President	2. The President has a fixed tenure of Office of five years in general
3. The Governor can be removed easily by the President on the advice of the Union Council of Ministers headed the Prime Minister	3. He can be removed only by the difficult process of Impeachment by the Parliament
4. The Governor has discretionary power	4. The President has no discretionary powers
5. The Governor does not have Military and diplomatic powers	5. He has Military and Diplomatic powers
6. Pardoning power of the Governor is limited. He cannot pardon death sentence and any sentence inflicted by the Martial Court	6. Pardoning power of the President is absolute. He can pardon even the death sentence and sentence of Martial Court
7. The Governor does not have emergency powers. He can only suggest for the imposition of President's Rule	7. The President can Promulgate orders for the declaration of all the three types of Emergencies.
8. The Governor has no power to remove the Chairman and Members of the State Public Service Commission though he appoints them	8. The President can remove the Chairman and the Members of the Union Public Service Commission on the grounds stipulated by the Constitution
9. The Governor sometimes may reserve a bill for the consideration of the President	9. The President need not reserve any bill for the consideration of any other authority before giving his assent
10. The Governor cannot issue ordinance without instructions from the President on the matters (a) which might affect the powers of the Union (b) affecting powers of the High Court (c) Imposing reasonable restrictions upon Inter-State Trade or Commerce	10. The President can promulgate any ordinance on the advice of Council of Ministers of the Union

The Constitution of India provides for the Parliamentary System of Government both at Centre and in the States. While the Governor is only a nominal executive, the real executive constitutes the Council of Ministers headed by the Chief Minister. The Constitution has assigned a dual role to the office of a Governor in the Indian federal system. He is the Constitutional head of the State government as well as the representative of the Union Government. As the Constitutional head of the state government, he must positively contribute to the progress and development of the State. He has to see that the political and administrative heads of the State Government strive for the promotion of the interests of the people. The Governor has to ensure that the ministers and bureaucrats must observe the constitutional and democratic norms. It is the responsibility of the Governor to see that the affairs of the government are carried on in accordance with Constitutional provisions. The Governor has to maintain close and harmonious relations with the real executive heads of the Union and State Governments.

The Governor is not supposed to run a parallel government in the State. His role is that of a good counselor, mediator and arbitrator than an active politician. He shall abide by the advice of the State Council of Ministers. This does not mean that he should accept all proposals immediately. He can reserve Bills for reconsideration and prevent hasty decisions. Great caution and restraint must be exercised while reporting to the President under Article 356. Otherwise, his image as guardian of the State Government would be tarnished. He should keep himself away from active politics. If he identifies himself with a political party, he cannot inspire the total trust of the people.

Being the representative of the Centre, the Governor has the responsibility of informing through reports whether the State is complying with the directives issued by the Union from time to time. It is his constitutional obligation to inform the Union whether the constitutional machinery is functioning smoothly in the state or not.

The Centre-State relations largely depend upon the action and performance of the Governor. He can make or mar the healthy relations between the Union and the State. The Constitution has given certain discretionary powers to the Governor. If the Governor makes use of these powers sparingly, judiciously and impartially, tensions between the Centre and the States would certainly be reduced. If he acts with bias and at the behest of the Central Government, the tensions between the Centre and State would undoubtedly be enhanced. The role of the Governor in the formation or dissolution of the Ministry or imposing of President's Rule will have far reaching implications and consequences in the healthy and harmonious Centre-State relations.

The role of the Governor has become a crucial and complex in the present day's coalition politics. To play this role successfully the Governor must possess, as the former President Dr. A.P.J. Abdul Kalam emphasized, the qualities like honest behavior, impartial outlook, commitment to the Constitutional principles and transparency. The former Women Governors like Smt. Sarojini Naidu (U.P), Smt. Padmaja Naidu (West Bengal) and Smt. Vijayalakshmi Pandit (Maharashtra) earned name and fame as Governors. Similarly some other Governors like Shankar Dayal Sharma, and Krishna Kanth became Vice-Presidents after their tenure as Governors because of the high reputation and faith they earned from the people as Governors.

List of the Governors of Andhra Pradesh

Sl.No.	Name of the Governor	From	To
1	C.M. Trivedi	01-11-1953	31-07-1957
2	Bhimsen Sachar	01-08-1957	07-09-1962
3	Genl. S.M. Nagesh	08-09-1962	03-05-1964
4	P. Thanu Pillai	04-05-1964	10-04-1968
5	Khandubai Kasanji Desai	11-04-1968	25-01-1975
6	Justice P. Obul Reddy (Acting)	25-01-1975	09-01-1976
7	Mohanlal Sukhadia	10-01-1976	15-06-1976
8	R.D. Bhandare	16-06-1976	16-02-1977
9	Justice B.J. Diwan (Acting)	17-02-1977	04-05-1977
10	Smt. Sharada Mukerjee	05-05-1977	14-08-1978
11	K.C. Abraham	15-08-1978	14-08-1983
12	Ramlal	15-08-1983	29-08-1984
13	Dr. Shanker Dayal Sharma	29-08-1984	26-11-1985
14	Smt. Kumudben Manishankar Joshi	26-11-1985	07-02-1990
15	Krishan Kant	07-02-1990	21-08-1997
16	G. Ramanujam	22-08-1997	23-11-1997
17	Dr. C. Rangarajan	24-11-1997	02-01-2003
18	Surjeet Singh Barnala	03-01-2003	03-11-2004
19	Sushil Kumar Shinde	04-11-2004	04-01-2006
20	Rameshwar Thakur	04-01-2006	21-08-2007
21	Narayan Dutt Tiwari	21-08-2007	27-12-2009
22	E.S.L. Narasimhan	28-12-2009	Till date

6.4 The Chief Minister

In the scheme of Parliamentary System of Government provided by the Constitution the Chief Minister is the real executive and he is the head of the Government while Governor is the head of the State. The Chief Minister is the centre of the real executive authority at the State level. He plays a decisive role and occupies a key position in the State Government. The progress of the people and development of the State largely depends upon the caliber, personality, perseverance and political stature of the Chief Minister.

Articles 163 and 164 of our Constitution deal with the Office of the Chief Minister. Article 163(1) says there shall be a Council of Ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his functions.

6.4.1 Qualifications

Our Constitution does not prescribe any specific qualifications for the Chief Minister. Since the executive arises from the Legislature, the qualifications prescribed for the Members of the State Legislature are equally applicable to the Chief Minister. He must be a Member of State Legislature and must be able to command majority support in the Legislative Assembly of the State. If he is not a Member, he should get elected to the State Legislature within a period of six months from the date of assuming his Office.

6.4.2 Appointment

The Chief Minister is appointed by the Governor under Article 164. After general elections, the Governor normally invites the leader of the majority party in the Legislative Assembly to form the government and appoints him as the Chief Minister. When no single party secures majority in the Legislative Assembly the Governor explores all possibilities of installing a stable Government. He invites such a leader who can muster the support of the majority legislators even from other parties in forming the Government. While appointing such a leader as the Chief Minister, the Governor gives him reasonable time to prove his majority on the floor of the Legislative Assembly. The procedure adopted by the Governor in appointing the Chief Minister shall not be questioned in any Court of Law.

6.4.3 Tenure

There is no fixed tenure for the Chief Minister. He can continue in the Office as long as he enjoys (a) the pleasure of the Governor and (b) the confidence of the majority in the Assembly. So the Chief Minister makes all efforts to win the pleasure of the Governor and confidence of the majority Members of Popular House. Normally, the Chief Minister holds office for a period of five years.

6.5 Powers and Functions of Chief Minister

The Chief Minister has high authority and heavy responsibility in discharging his powers and related functions. His powers and functions are related to the following heads:

i. Formation of the Ministry

The first and foremost responsibility of the Chief Minister is the formation of Ministry of his choice. The CM has a free hand in the selection and appointment of Ministers. He chooses some members of his party (or coalition partners in the case of a coalition) and recommends their names to the Governor to be appointed as Ministers. He advises the Governor to allocate portfolios among the Ministers.

ii. Leader of the State Council of Ministers

The Chief Minister is the head of the Council of Ministers. As such he occupies a position of exceptional authority. He is the Chairman of the State Council of Ministers. The Chief Minister decides the time, venue and the agenda of Cabinet meetings. The CM presides over such meetings, discussions are carried under his under his direction. He guides, directs, controls and co-ordinates the activities of the Ministers.

iii. Link between the Governor and the State Council of Ministers

The Chief Minister is the principal channel of communication between the Governor and the State Council of Ministers. As part of his Constitutional duty he communicates all the administrative decisions and legislative proposals of the State Council of Ministers to the Governor. It is his responsibility to furnish any information related to the actives of the Ministers as the Governor may call for. No minister shall meet the Governor without the consent of the Chief Minister.

iv. Leader of the Legislative Assembly

As the Chief Minister enjoys the confidence and support of the majority Legislators he acts as the leader of the Assembly. In that capacity he extends complete co-operation to the Presiding Officers for the smooth conduct of the Business of the House. He ensures discipline of his party members in the Assembly. The CM helps other Ministers in case they are unable to satisfy the House with their replies or when a situation goes out of control in the Assembly. He announces the Government policies on the floor of the Lagislative Assembly.

v. Chief Spokes Person

The Chief Minister is the chief spokesperson of the Government. He announces the major policies and programs of the State Government. His statements in and outside of the State Legislature will carry much legitimacy and influence in the State. The Members in the State Legislature demand for clarification and statements on particular issues of the State from the Chief Minister. So he maintains much restraint without making controversial statements.

vi. Leader of the party in power

The Chief Minister is the leader of party in power at the State level. He participates in the meetings organized by his party. He informs the party members about the policies and programs initiated by the State Government to fulfill the poll promises of his party. He seeks the co-operation and support of the party members for the effective implementation of the government policies and successful function of the Government. He brings co-ordination between the party in power and the Government. If he happens to be the President or the General Secretary of the party he gains control over his party. He utilizes the services of the senior, experienced and prominent party leaders in improving the image and efficiency of the State Government. He sees that his party members do not make controversial and embarrassing comments that may land the executive in the troubled waters.

vii. Leader of the people

He tries to know and understand the needs and interests, aspirations and expectations of the people in the State. For this purpose he frequently makes visits to different places and addresses the public gatherings. He invites petitions from the people and patiently listens to them. He informs the people about the welfare measures and developmental programs taken up by the Government. He motivates the people to take active participation in the implementation of various welfare schemes. He under takes relief measures and consoles the people affected during the natural calamities. He maintains good rapport with the people and wins their confidence and trust as their prominent leader of the people.

viii. Chief Advisor to the Governor

It is the Constitutional obligation of the CM to render advice to the Governor on all matter of the State Government. His advice is binding over the Governor in the

matter of appointment of ministers, allocation of portfolios, reshuffling of the Ministry and accepting the resignation of Ministers. It is a rare privilege and opportunity of the Chief Minister to advise the Governor to dissolve the State Legislative Assembly when he still has majority support of the members in the Assembly.

ix. Cordial relations with the Union Government

The Chief Minister, being the real head of the State administration, has the main responsibility of maintaining harmonious relations with the Union Government. He should develop cordial and amicable relations with the Prime Minister and the Union Ministers. He will have to interaction with several Union Ministers particularly of Home, Finance, Industry, Agriculture, Education, and Rural Development etc.

How much Union support a State gets in the form of financial grants to the centrally sponsored schemes depend on the Chief Minister's influence on and the rapport with the Union Ministers. The State's representation in the Union Cabinet also influences the quantum and quality of the support to the State.

x. Relations with Party in Opposition

The Chief Minister maintains good relations with the Presidents, Floor Leaders and MLAs of the Opposition Parties. Good contacts, healthy relations and cordial approach the Chief Minister in securing constructive co-operation from the Opposition. He takes the Opposition parties into confidence on crucial issues of the State. He organizes all party meetings and takes delegation of all parties to the Union Government for communicating issues of the state.

xi. Related to the Constitution

The Indian Constitution confers all the powers of real executive on the Chief Minister. He owes his position to the Constitution. He has to exercise his authority and discharge his responsibilities in accordance with the provisions of Constitution. He must uphold the democratic norms and Constitutional principles in running the State administration.

6.6 Relationship with the Governor

In a Parliamentary Democracy like India the real executive of the state plays a pivotal role in the state administration. The Chief Minister as the real executive head in the State is responsible ultimately to the state electorate. The Chief Minister has also the obligation to facilitate the exercise of powers of the Governor by providing necessary information about the affairs of the administration of the State. The Governor has a right to seek any information on administrative and legislative activities of the state Council of Ministers through the Chief Minister. However, this right does not allow permit the Governor to become a parallel centre in the state. It may be noted that the nature of the power available to the Governor is persuasive and not authoritarian. So he cannot under the grab of this right start over riding or vetoing the decisions or proposals of the state Council of Ministers.

The founding fathers of our Constitution have laid great emphasis on the need for harmonious relations between the Governor and his Council of Ministers headed by the Chief Minister. This was the main idea behind abandoning the proposal for an elected Governor and adopting for his nomination by the President.

The Sarkaria Commission in its report emphasized that for the proper working of the Parliamentary system there needs to be a good personnel rapport between the Governor and the Chief Minister of a State. For fostering good personnel relationship, the Sarkaria Commission suggested that the Union Government has to consult the concerned Chief Minister before appointing the Governor of a the State. Pandit Jawaharlal Nehru during his speeches in the Constituent Assembly stated that the Governor should be acceptable to the Chief Minister. Both the Chief Minister and Governor must work together in mutual co-operation to promote the development of the State and safeguard the interests of the people of the State.

6.7 Position and Significance of the Chief Minister

The Chief Minister occupies a position of exceptional authority at the State level administration. Technically speaking the Chief Minister is one among his many equals in the State Council of Ministers. However, as the head of the State Council of Ministers and leader of the party he occupies a key position among the State Council of Ministers. He will have an indelible impression on every field of public activity, on every section, on every bureaucrat, and every legislator in the State.

The Chief Minister is the real Head of the State's Politico-Administrative System. He is the chief policy maker, principal planner and Head of the State Council of Ministers. He is the political head of some key departments. He remains as the chief co-coordinator of State administration. He decribed as the catalyst of the state administrative reforms. The Chief Minister acts as the guardian of Civil Servants and voice of the people. So his multifaceted role makes him the key person in State administration. He besides is no more first among his equals i.e., Ministers. He is much taller than his colleagues in the Cabinet. In this situation the personality of the Chief Minister will have paramount significance. The effectiveness of the State Administration depends upon his vision, competency and efficiency. Finally, it may be stated that the Chief Minister is the moving spirit and driving force in the State administration.

List of the Chief Ministers of Andhra Pradesh

Sl.No	Name of the Chief Minister	From	To
1	Neelam Sanjeeva Reddy	01-11-1956	11-01-1960
2	Damodaram Sanjivaiah	11-01-1960	12-03-1962
3	Neelam Sanjeeva Reddy	12-03-1962	29-02-1964
4	Kasu Bramhananda Reddy	29-02-1964	30-09-1971
5	P.V. Narasimha Rao	30-09-1971	10-01-1973
	President's Rule	10-10-1973	10-12-1973
6	Jalagam Vengala Rao	10-12-1973	06-03-1978
7	Marri Chenna Reddy	06-03-1978	11-10-1980
8	Tanguturi Anjaiah	11-10-1980	24-02-1982
9	Bhavanam Venkataram Reddy	24-02-1982	20-09-1982
10	Kotla Vijaya Bhaskara Reddy	09-01-1982	09-01-1983
11	N.T.Rama Rao	09-01-1983	16-08-1984
12	Nadendla Bhaskara Rao	16-08-1984	16-09-1984
13	N.T.Rama Rao	16-09-1984	09-03-1985
14	N.T.Rama Rao	09-03-1985	03-12-1989
15	Dr. Marri Chenna Reddy	03-12-1989	17-12-1990
16	Nedurumalli Janardhana Reddy	17-12-1990	09-10-1992
17	Kotla Vijaya Bhaskara Reddy	09-10-1992	12-12-1994
18	N.T.Rama Rao	12-12-1994	01-10-1995
19	Nara Chandra Babu Naidu	01-09-1995	14-05-2004
20	Dr. Y.S. Rajasekhara Reddy	14-05-2004	02-09-2009
21	K. Rosaiah	04-09-2009	24-11-2010
22	N. Kiran Kumar Reddy	25-11-2010	19-02-2014
	President Rule	01-03-2014	02-06-2014
23	Nara Chandrababu Naidu	06-08-2014	Till date

List of the Chief Minister and Governors of Indian States and Union Territories

S. No.	State and Union Territories	Chief Minister	Governor
1	Andaman & Nicobar	Union Territory	A. K. Singh (Lieutenant-Governor)
2	Andhra Pradesh	N.Chandrababu Naidu	E. S. L. Narasimhan
3	Arunachal Pradesh	Nabam Tuki	Nirbhay Sharma
4	Assam	Tarun Gogoi	Janaki Ballabh Patnaik
5	Bihar	Nitish Kumar	Keshari Nath Tripathi
6	Chandigarh	U.T.	Shivraj V. Patil (Administrator)
7	Chhattisgarh	Dr. Raman Singh	Balramji Dass Tandon
8	Goa	Laxmikant Parsekar	Mridula Sinha
9	Gujarat	Anandiben Patel	Om Prakash Kohli
10	Haryana	Manohar Lal Khattar	Kaptan Singh Solanki
11	Himachal Pradesh	Virbhadra Singh	Urmila Singh
12	Jammu and Kashmir	Mufti Mohammad Sayeed	Narinder Nath Vohra
13	Jharkhand	Raghubar Das	Dr. Syed Ahmed
14	Karnataka	K. Siddaramaiah	Vajubhai Rudabhai Vala
15	Kerala	Oommen Chandy	P. Sathasivam
16	Madhya Pradesh	Shivraj Singh Chouhan	Ram Naresh Yadav
17	Maharashtra	Devendra Fadnis	Chennamaneni Vidyasagar Rao
18	Manipur	Okram Ibobi Singh	K. K. Paul (Acting Governor)
19	Meghalaya	Mukul Sangma	K. K. Paul
20	Mizoram	Pu Lalthanhawla	Aziz Qureshi
21	Nagaland	T R Zeliang	Padmanabha Balakrishna Acharya
22	New Delhi	Arvind Kejriwal	Najeeb Jung (Lieutenant-Governor)
23	Odisha	Naveen Patnaik	S. C. Jamir
24	Puducherry	N. Rangasamy	Ajay Kumar Singh (Retd. Lt. General)
25	Punjab	Parkash Singh Badal	Shivraj Patil
26	Rajasthan	Vasundhara Raje	Kalyan Singh
27	Sikkim	Pawan Kumar Chamling	niwas Dadasaheb Patil
28	Tamil Nadu	O Panneerselvam	Konijeti Rosaiah
29	Telangana	K Chandrasekhar Rao	ESL Narasimhan
30	Tripura	Manik Sarkar	Padmanabha Balakrishna Acharya
31	Uttar Pradesh	Akhilesh Yadav	Ram Naik
32	Uttarakhand	Harish Rawat	Krishan Kant Paul
33	West Bengal	Km. Mamata Banerjee	Keshari Nath Tripathi
34	Dadra and Nagar Haveli	U.T.	B.S. Bhalla (Administrator)
35	Daman and Diu	U.T.	B.S. Bhalla (Administrator)
36	Lakshadweep	U.T.	H. Rajesh Prasad

6.8 The State Council of Ministers

The Governor is vested with the executive powers of the State Government under Article 164 of the Constitution. The Governor exercises these powers either directly or through officers subordinate to him. The Governor being the nominal executive of the state cannot execute all the administrative matters of the State directly. So he needs a team of subordinate performs to run the state administration in his name such a team of persons is called the Council of Ministers.

Article 163(1) of the Indian Constitution provides for the State Council of Ministers with the Chief Minister at its head, to aid and advise the Governor in the exercise of his powers and in running the State administration.

In Parliamentary like India the real executive is the Chief Minister and his team of Council of Ministers form an integral part of the State Executive. The State Council of Ministers formulates and implementats the policies of the State. The State Council of Ministers exercises administrative control over and co-ordinates the activities of the State Government.

6.8.1 Composition

The State Council of Ministers is generally a three-tier body. It consisting of :

1. Cabinet Ministers 2. Ministers of State and 3. Deputy Ministers. There will be some only Parliamentary Secretaries in some States on rare occasions. It constitutes the fourth wing of the hierarchy of the Council of Ministers.

i. Cabinet Ministers

The Cabinet is a small body consisting of ministers holding the most important portfolios such as Home, Finance, Planning, and Industries etc. They enjoy independence in taking and implementing decisions concerning their ministry. They attend the Cabinet meetings, concerned by the Chief Minister. Some times the Ministers of state and deputy ministers may attend the cabinet meetings, in case their presence is needed during deliberations. They meet frequently and determine the policies of the State Government under the stewardship of the Chief Minister.

ii. Ministers of State

The Ministers of State hold portfolios of less importance compared to the Cabinet Ministers. They may be attached to the individual Cabinet Ministers or might be given independent charge of crucial departments in the major Ministries. In such a case they enjoy independence. They are answerable directly to the Chief Minister. They are not subject to the control of Cabinet Ministers.

iii. Deputy Ministers

The Deputy Ministers are attached to the Cabinet Ministers. They perform such functions which are assigned by the Cabinet Ministers. His role is mainly to relieve the burden of the Cabinet Minister. He assists the Cabinet Minister in the administrative and legislative affairs of the Ministry.

There are Deputy Chief Ministers appointed in some of the States. This office is created generally to satisfy some of the senior and important members of the party. There is no other specific purpose of creating the Office of Deputy Chief Minister. Generally, he is also given an office i.e., a Ministry for which he is also responsible individually to the Governor and collectively to the Legislative Assembly. The bifurcated Andhra Pradesh has two Deputy Chief Ministers namely K.E. Krishna Murthy and N. Chandrababu Naidu.

6.8.2 Size of the Council of Ministers

The Constitution does not fix the number of Ministers to be included in the Council of Ministers. It is for the Chief Minister to determine the size of the Council of Ministers. But there has been a criticism that the size of the Council of Ministers is too large and heavily burdens the public exchequer. Hence the Constitution (91st Amendment) Act 2003 fixes a ceiling on the size of the Council of Ministers. The total number of the Ministers cannot be more than 15% of the total strength of the State Legislative Assembly.

6.8.3 Qualifications

The Constitution does not specify the qualifications for the Ministers. But in the Parliamentary form of Government the executive is part and parcel of the legislature. So they possess the same qualifications as that of the members of State Legislature.

Hence, the persons who are to be appointed as Ministers must possess the following qualifications:

1. They should be members of either House of the Legislature (if it is bi-cameral)
2. If the Ministers are not the members of the State Legislature, they should be elected to the State Legislature within six months from the date of assuming their office. Otherwise they cease to hold their office.
3. They must possess such other qualifications as is determined by the Parliament from time to time.

6.8.4 Appointment

All the Ministers are appointed by the Governor (Article 164) on the advice and recommendation of the Chief Minister. The Chief Minister selects a few legislators of his party and recommends their names to the Governor for appointment as Ministers. The Governor allocates portfolios to the ministers on the advice of the Chief Minister.

6.8.5 Tenure

Since the members of Council of Ministers are not elected by the people to the position of ministers but are appointed by the Governor, their tenure coincides with the duration of the pleasure of the appointing authority i.e., Governor.

Article 164(2) stipulates that the ministers shall hold the office during the pleasure of the Governor. Article 164(3) states that the Council of Ministers shall be collectively responsible to the Legislative Assembly. So it is clear that a minister holds office under the following two conditions, namely: 1) during the pleasure of the Governor and 2) as long as they discharge their collective responsibilities to the Assembly and enjoy the confidence of the Popular House.

6.8.6 Removal

The Governor removes the Ministers on the advice of the Chief Minister. The Governor need not assign any reason for the removal of the ministers. All ministers have to work as team under the captaincy of the Chief Minister. They have to support and defend the decisions taken by the Cabinet. If any minister differs with the decisions of the Cabinet, the Chief Minister asks him to resign. If he does not oblige, the Governor dismisses the concerned minister from the Council of Ministers on the advice of Chief Minister.

6.8.7 Salary and Allowances

The State Legislature, by an Act, determines the salary and allowances of the Council of Ministers. Hence they vary from State to State. Their salaries and allowances are charged on the Consolidated Fund of the State. They are not subject to vote in the State Legislature.

As of now the Chief Minister receives monthly a Basic Pay of Rs. 16,000/- and other Ministers receive the basic pay of Rs.14,000/- each. They receive a Special Allowance Rs. 8000, Sumptuary Allowance Rs. 7000/-, Camp Office Allowance Rs.10,000/-, Security Car Allowance Rs. 25,000/-, Own Car Allowance Rs.30,000/-, and House Rent Allowance Rs.50,000/-. Besides the above, he receives a Constituency Allowance of Rs.83,000/-. In total, the Chief Minister receives a sum of Rs.2,29,000/- and Minister Rs.2,27,000/-.

6.9 Powers and Functions of the Council of Ministers

The State Council of Ministers aids and advises the Governor in the administration of the State. For this purpose it is to formulate and implement various policies and take different decisions. It develops numerous plans and chalks out programs and schemes. It also makes suitable laws and enacts legislations. The State Council of Ministers co-ordinates the efforts of all the departments to attain the administrative goals and objectives. All these functions can be discussed under the following heads:

i. Policy Formulation

The State Council of Ministers formulates policies suitable for the progress of the people and development of the State. It is an intellectual and laborious process. The Cabinet Ministers meet frequently under the leadership of the Chief Minister, discuss thoroughly various matters of the State administration and finalize the policies along with the necessary decisions.

ii. Enactment of Laws

The State Council of Ministers takes Legislative initiation on different matters of State Government. It is the Council of Ministers that drafts and finalizes the public Bills and pilots them in the State Legislature at different stages in order to get them approved by the Legislature. Once the bills are approved by the Legislature, the Council of Ministers advises the Governor to assent them so that they become laws. The Council of Ministers may propose amendment to the existing laws or enactment of new laws for the administrative convenience.

iii. Provision of Good Administration

The State Council of Ministers i.e., the real executive is voted to power to provide good administration and promote the wellbeing of the people of the State. The chief responsibility of the Council of Ministers is running the administration in accordance with the Constitutional cardinals and democratic doctrines. The total administrative work is divided into different ministries. Each minister has one or more departments under his control and is responsible for the effective and the transparent administration of such departments. It formulates and implements different developmental programs and welfare schemes.

iv. Co-ordination of Governmental Activities

The State Council of Ministers is responsible and the authority for coordinating the functions of different government departments. Without proper co-ordination among the departments the success of the State administration cannot be ensured. The Chief Minister guides and takes lead in coordinating the cabinet discussions and government activities.

v. Appointment Power

The State Council of Ministers plays a key role in all important appointments to various offices in the State. It makes all appointments in the name of the Governor to various higher offices like the Chief Secretary, Advocate General, D.G.P, Principal Secretaries, Secretaries and other Heads of the Departments etc.

vi. Financial Functions

The State Council of Ministers wields control over the Finances of the State. It determines fiscal policy and deals with the matters concerning the State Revenue, Expenditure, Investment and Audit of Accounts. It prepares the budget proposals of the State Government and places it before the State Legislature for its consideration and approval. It manages the Finances of the State according to the policy and budget as approved by the Legislature. Its role is that of a trustee.

vii. Miscellaneous Functions

The State Council of Ministers finalizes strategies for the over all development of the State in the sphere of Agriculture, Irrigation, Industry, Transport, Education, Planning, IT etc. It proclaims ordinances in the name of the Governor during the recess of the State Legislature

6.10 Position of the State Council of Ministers

The State Council of Ministers, being the real executive, plays a vital role in the State administration and really runs the administration of the State. It is the main source of activities of the State Government. It is the supreme policy making and execution body in the State Government under normal conditions. It determines and directs the destiny of the State.

6.11 Relationship between the Governor and State Council of Ministers

The relationship between the Governor and State Council of Ministers is that of the relationship between the nominal executive and the real executive. The Constitution empowers the Governor to appoint the real executive that is State Council of Ministers. They hold office during his pleasure. The Governor can dismiss a minister or the ministry as a whole. The Constitution enshrines that the Council of Ministers is to aid and advise the Governor in the performance of his functions. The Governor has to follow their advice under normal circumstances. Although the administration is carried on in the name of the Governor, actual decisions are generally taken by Ministers.

It is the Constitutional duty of the Chief Minister of a State to communicate to the Governor all decisions of the Council of Ministers relating to the administrative affairs of the State and proposals for Legislation. He furnishes such information relating to the above as the Governor may call for. If a matter has been decided by an individual minister, the Governor may require it to be submitted to the Council of Ministers as a whole. Thus, the Governor has a right to be kept informed. The Governor can guide the ministers and warn them regarding a course of action contemplated by them.

Summary

The State executive comprises 1.the Governor, 2.the Chief Minister and 3. State Council of Ministers. The Governor is the representative of the President of India and nominee of the Union Government. The Chief Minister is the real Executive Head of the State. The Ministers once their existence to the Chief Minister and follow his guidelines and tune themselves with his views. The Governor occupies a prestigious position in the State Administration. He ensures that the State is governed in accordance with the Constitutional principles. By discharging his duties assigned by the Constitution without involving in the active politics of the State he can command the respect and gain the trust of the Council of Ministers and people of the State. The Chief Minister has a pivotal role in the State governance in his capacity as the leader of the majority party in the State Legislative Assembly and leader of the people in the state. His personality and statesmanship determine the overall development of the State. The State Council of Ministers comprises members belonging to majority party or coalition. The ministers are appointed by the Governor on the advice of the Chief Minister. Both the Chief Minister and his Council of Ministers will held their office during the pleasure of the Governor and the majority members' support in the State Legislative Assembly.

QUESTIONS

I. Long Answer Questions

1. Discuss the powers and functions of the Governor
2. Explain the powers and function of the Chief Minister
3. Describe the powers and functions of the State Council of Ministers

II. Short Answer Questions

1. Explain any three powers and functions of the Governor
2. What are the discretionary functions of the Governor?
3. What are the differences between the Governor of a State and the President of India.
4. What is the position and significance of the Governor in the State?
5. Explain any three powers and functions of the Chief Minister
6. Explain the Composition of the State Council of Ministers
7. Point out any three powers of the State Council of Ministers
8. Estimate the relationship between the Chief Minister and the Governor

III. Very Short Answer Questions

1. Qualifications of Governor
2. Special responsibilities of the Governor
3. State Executive
4. Immunities of the Governor
5. Any two Executive powers of the Governor
6. Two discretionary powers of the Governor
7. The Chief Minister
8. Cabinet Ministers
9. Composition of the State Council of Ministers
10. Cabinet Ministers
11. Deputy Ministers
12. State Ministers

CHAPTER 7



State Legislature

- 7.0 Introduction
- 7.1 Legislative Assembly
- 7.2 Powers and Functions of State Legislative Assembly
- 7.3 State Legislative Council
- 7.4 Powers and Functions of State Legislative Council
- 7.5 Supremacy of Legislative Assembly over the Legislative Council
- 7.6 Position of the State Legislature
- 7.7 Brief history of Andhra Pradesh Legislature
- 7.8 Legislative Committees
- Summary
- Questions

7.0 Introduction

The State Legislature occupies a preeminent and central position in the state political system. The Constitution of India provides for a state legislature in each state and gives to it the power to make laws on the subjects included in lists the state and concurrent subjects. Articles 168 to 213 in part VI of the Constitution deal with the organization, composition, duration, procedures, privileges and so on of the state legislature.

The state legislature consists of the Governor and one or two houses. Though there is a bicameral legislature at national level there is no compulsion that every state shall have a Bicameral Legislature. Basing on the economical viability and geographical feasibility some states have Bicameral and some others have Unicameral Legislature. Out of 29 states, 22 states have Unicameral Legislature and 7 states have Bicameral Legislatures i.e., Andhra Pradesh, Bihar, Jammu & Kashmir, Karnataka, Maharastra, Telangana, Uttar Pradesh.

If there is a Unicameral Legislature it consists of one house called Legislative Assembly or Vidhanasabha or

Popular House (Lower House). Where there is a bicameral legislature there are two houses; one is Legislative Assembly and the other is Legislative Council or Vidhan Parishad (Upper House) or Second Chamber or House of Elders.

Vidhan Sabha represents the entire state. The members are elected by the voters through direct election. The members of the Legislative Council represent the various sections of the people. They are elected through indirect election.

The Vidhana Parishad in a state will be created or abolished at the will of the Legislative Assembly of that state with the consent of the Parliament. Article 169 of the Constitution provides a procedure for the creation or abolition of the 2nd chamber (Vidhana Parishad). The procedure is a resolution of the Legislative Assembly of the State concerned passed by a majority of the total membership of that Assembly and of 2/3rds of the members present and voting. The concurrence of the Parliament is necessary to such resolution. The student can acquire a good knowledge about the state legislature through a glance given under the chapter.

7.1 Legislative Assembly (Vidhana Sabha)

Legislative Assembly is the Lower House of the state legislature. The Member of Legislative Assembly is called M.L.As. According to Article 170 of the Indian Constitution it consists of not more than 500 members and not less than 60 members, it means that its strength depends on the population and size of the states. But small states have been allowed to have less number of members. Thus, Goa and Mizoram have only 40 members, while Sikkim has 32 members.

Present Strength Position of Legislative Assemblies in India

S.No	Name of the State	Strength of Legislative Assembly
1	Andhra Pradesh	175
2	Arunachal Pradesh	60
3	Assam	126
4	Bihar	243
5	Chattisgarh	90
6	Goa	40
7	Gujarath	82
8	Haryana	90
9	Himachal Pradesh	68
10	Jammu & Kashmir	76
11	Jharkhand	81

S.No	Name of the State	Strength of Legislative Assembly
12	Karnataka	224
13	Kerala	140
14	Madhya Pradesh	230
15	Maharashtra	288
16	Manipur	60
17	Meghalaya	60
18	Mizoram	40
19	Nagaland	60
20	Odisha	147
21	Punjab	117
22	Rajasthan	200
23	Sikkim	32
24	Tamilnadu	234
25	Telangana	119
26	Tripura	60
27	Uttaranchal	70
28	Uttar Pradesh	404
29	West Bengal	294
Union Territories		
1	National Capital Territory of Delhi	70
2	Puducherry	30

7.1.1 Composition

The legislative Assembly of each state shall be composed of members elected directly on the basis of the adult franchise from territorial constituencies. The Governor nominates one member from Anglo-Indian community to provide an adequate representation. There shall be a proportionate representation to population in respect of each territorial constituency within the state. Some of the seats in Assembly are reserved for scheduled castes and scheduled tribes. While U.P. has highest number of seats 404, Sikkim has the smallest number of seats 32. After bifurcation, at present the Legislative Assembly of Andhra Pradesh consists of 175 members.

7.1.2 Qualifications of the Members

A person who wishes to contest for the membership of the State Legislative Assembly must possess the following qualifications:

1. He should be a citizen of India.
2. He should have completed the age of 25 years.
3. He should possess such other qualifications as prescribed by an act of Parliament.
4. However, no person can simultaneously be a member of any House of the Parliament and of a state legislature.

7.1.3 Oath or Affirmation

Every member of state legislature should take an oath or affirmation soon after getting elected before Governor or some persons appointed by him for this purpose. In this oath, a member of the State Legislature swears;

- a) To bear true faith and allegiance to the Constitution of India.
- b) To uphold the sovereignty and integrity of India
- c) To faithfully discharge the duties of his office

7.1.4 Salaries and Allowances

The salary of a member of a Legislative Assembly of a state in India like that of Member of Parliament is accompanied by other allowances. The salary of MLA or MLC is decided by the respective State Legislature as per the Article 164 of the Indian Constitution.

The members of Andhra Pradesh State Legislative Assembly receive a monthly salary of Rs.90,000/- which includes a basic pay of Rs. 15,000/- and constituency allowance of Rs. 75,000/-. Those legislators who are not provided government accommodation will get an additional Rs.10,000/- as H.R.A. Members also get daily allowance of Rs. 800/- when the state legislature is in session.

The monthly pension of former legislators is as follows. Those who served a single term as M.L.A. will get Rs. 15,000/- per month while those who served two terms will get Rs. 20,000/- and those who served three or more terms will get Rs. 25,000/- per a month. Medical and travel benefits are given separately for both serving and retired legislators.

7.1.5 Tenure

The normal tenure of the Legislative Assembly is 5 years. However it may be dissolved before the tenure. It can be suspended or dissolved by the President under the Article 356 of the Constitution. In such a case the Union Parliament shall have the power to extend the tenure of the Legislative Assembly up to 6 months at a time and it can be extended up to one year. Under any circumstances this President's Rule shall not be exceeded more than three years. This means that the Legislative Assembly should be re-elected within six months after revocation of President's Rule.

7.1.6 Speaker and Deputy Speaker

The members of State Legislative Assembly elect one among them as a Speaker and another as Deputy Speaker to conduct the business of the house. Their term of office is 5 years. The Speaker is the guardian of the rights and liberties of the members of the house. He also maintains discipline in the house. The Deputy Speaker performs the duties in the absence of the Speaker. In both the cases, he has all powers. The Speaker and Deputy Speaker may be removed by passing a resolution in the house.

Speakers of Andhra Pradesh Legislative Assembly

Speakers of Andhra Pradesh Legislative Assembly			
Andhra State (1953-1956)			
	1 st Assembly	1953	1955
Nallapati Venkatramayya Chowdary		23-04-1955	03-12-1956
R. Lakshminarasimham Dora.			
Andhra Pradesh (1956-2014)			
Ayyadevara Kaleswara Rao	1 st	04-12-1956	26-02-1962
B. V. Subba Reddy	2 nd	20-03-1962	14-03-1967
B. V. Subba Reddy	3 rd	19-03-1967	31-07-1970
B. V. Subba Reddy		03-12-1970	29-09-1971
K.V. Vema Reddy		25-11-1971	19-03-1972
Pidathala Ranga Reddy	4 th	21-03-1972	25-09-1974
R. Dasaradha Rami Reddy		28-01-1975	14-03-1978
Divi.Kondaiah Chowdry	5 th	16-03-1978	16-10-1980
Ch. N.R.CH.V.H.Murthy Raju (Acting)			
Kona Prabhakara Rao		24-02-1981	22-09-1981
Agarala Eswara Reddy		07-09-1982	16-01-1983
Tangi Satyanarayana	6 th	18-01-1983	28-08-1984
Nissankar Rao Venkat Ratnam		20-09-1984	10-01-1985
G. Narayana Rao	7 th	12-03-1985	26-09-1989

P. Ramachandra Reddy	8 th	04-01-1990	22-12-1990
D.Sripada Rao		19-08-1991	11-01-1995
Yanamala Rama Krishnudu	9 th	12-01-1995	10-10-1999
K. Pratibha Bharati	10 th	11-11-1999	31-05-2004
K.R. Suresh Reddy	11 th	01-06-2004	31-05-2009
Nallari Kiran Kumar Reddy	12 th	01-06-2009	24-11-2010
Nadendla Manohar	12 th	04-06-2011	16-05-2014
Andhra Pradesh (Bifurcated A-P)			
Kodela Shiva Prasad Rao	1 st	20-06-2014	Till date

7.1.7 Powers and functions of Speaker

The powers and functions of the Speaker of State Legislative Assembly are almost the same as those of the Speaker of Lok Sabha. His powers and functions are as follows:

1. The Speaker preserves order and decorum in the House for conducting legislative business.
2. He allocates time for different kinds of business in the House.
3. He interprets the rules and procedure.
4. He puts matters to vote and announces the results.
5. He has the right of casting vote in case of a tie.
6. He admits motions, resolutions and points of order.
7. He is empowered to adjourn the meeting of the House in the absence of a quorum.
8. He can order for removal of indecent and incriminatory references from the records.
9. He allows the members to speak in the House.
10. He may name a member and ask him to leave the House in case of disorderly behavior.
11. He can adjourn the House in case of grave disorder or serious matter.
12. He accepts and rejects the resignation of a member of the House after ascertaining whether it was submitted under due process or not.
13. He appoints the Chairmen of all the committees of the assembly and supervises their functioning. He himself is a Chairman of Business Advisory Committee, Rules Committee and the General Purpose Committee.
14. He decides where a bill is a Money Bill or not. His decision on this question is final.

7.1.8 Sessions

The State Legislative Assembly holds its meetings at least twice a year. There shall not be a gap of not more than 6 months between two sessions. Generally the State Legislature meets thrice a year i.e., Budget Session, Monsoon Session and Winter session.

7.1.9 Quorum

Quorum is the minimum number of members required to be present in the house before it can transact any business. According to Article 188 of the Constitution, the Quorum for conducting the State Legislative Assembly meeting was fixed at 1/10th of the total membership. However, in some states, where the strength of the State Legislative Assembly is very less, the quorum will be a minimum number of 10. The Speaker decides whether there is a quorum or not on a particular day.

7.1.10 Privileges

Privileges of a state legislature are a sum of special rights, immunities and exemptions enjoyed by the state legislatures. They are necessary in order to secure independence and effectiveness of their actions. The Houses cannot maintain the authority, dignity and honour without these privileges. They can protect their members from any obstructions in the discharge of their legislative responsibilities.

These privileges are divided into two categories

(i) Collective privileges; (ii) Individual privileges

- i. Collective privileges:* The Legislature has the right to publish its reports, debates and proceedings and also to prohibit others publishing the same.
- ii. Individual privileges:* The privileges belonging to the members of state legislature individually. They cannot be arrested during the session of the state legislature or 40 days before and after the end of the session.

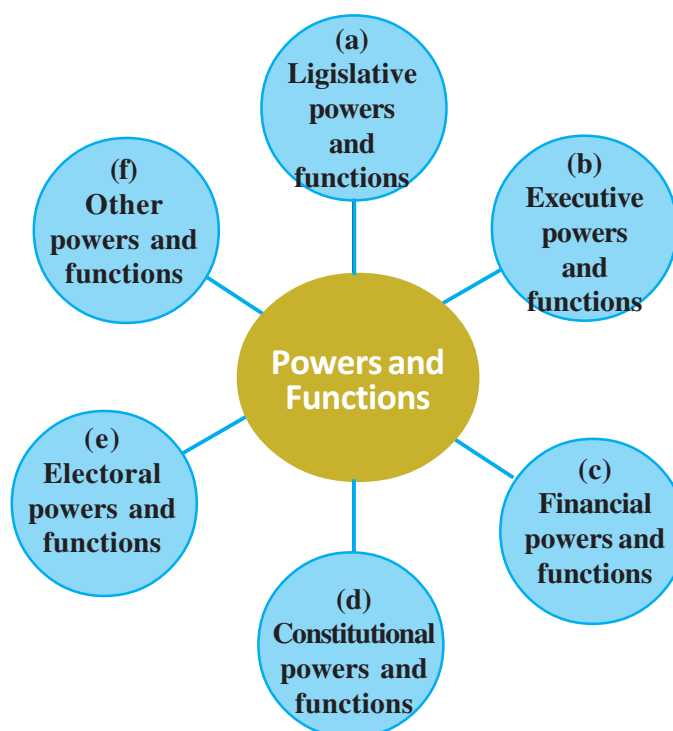
7.1.11 Disqualifications

The member of State Legislative Assembly are disqualified on the following grounds;

- i. If he holds any office of profit under the Government of India or the Government of any State.
- ii. If he voluntarily acquires the citizenship of Foreign State.
- iii. He can also be disqualified on grounds of unsound mind or insolvency.
- iv. He is so disqualified under any law made by Parliament.
- v. He can also be disqualified under the grounds of defection.

7.2 Powers and Functions of State Legislative Assembly

The State Legislative Assembly exercises several powers and functions as shown in the below diagram.



a) Legislative Powers and Functions

The State Legislative Assembly is primarily a law making body. It has the power to make laws on all subjects included in the State List. It can also pass legislation on all subjects mentioned in the Concurrent List. When the legislative Assembly passes a law among including in the Concurrent List that law should not be conflict with a law already made by the union Parliament on the same subject. If the said law on a concurrent subject goes contrary to the corresponding union law, it becomes invalid.

The State Legislative Assembly approves the ordinances proclaimed during its recess. Its members act as members in various legislative committees for effective implementation of the laws, and for coordinating the executive when ever needed in this context.

There is a tradition of introducing of that ordinary bills in either House of the Legislature. However, in practice all the bills are at first introduced in the Assembly. The bills will be sent to the Governor after they are passed by the Legislature. If the bills are rejected by the Council or made delayed by it for a period of three months or to a maximum of four months, the bills are deemed to have been passed by the Assembly and sent to the Governor for his assent.

If an ordinary bill passed by the Legislative Assembly is opposed by the Legislative Council there is no provision of joint sitting. The will of the legislative Assembly prevails in such a case.

b) Executive Powers and Functions

The State Legislative Assembly exercises control over the State Council of Ministers. The Chief Minister and Ministers are individually and collectively responsible to the State Legislative Assembly. The cabinet continues as long as it has the confidence of the State Legislative Assembly. The State Legislative Assembly exercises control over the State Lagislative Assembly through various ways, like Call-Attention-Motion, Adjournment-Motion, Questions, Supplementary Questions, Censure-Motion and No-Confidence Motion. The legislative Assembly enjoys more powers than the Legislative Council in this regard.

c) Financial Powers and Functions

The State Legislative Assembly has enormous powers and functions relating to the state finances. It sanctions and approves the state finances. Without finance, government can do nothing. The finance is the fuel to the engine of administration. All money bills are at first introduced in State Legislative Assembly for its approval. If the State Legislative Assembly refuses the money bills the cabinet will collapse. The State Legislative Council approves all money bills within 14 days after their approval by the State Legislative Assembly.

If the State Legislative Council fails to approve Money Bills within the stipulated period, money bills are deemed to be approved by the two Houses. Finally, the Speaker sends the money bills for the assent of the Governor.

d) Constitutional Powers

The State Legislative Assembly plays a secondary role in the matters of Constitutional amendment. It cannot initiate any proposal for amending the provisions of the Constitution. Some provisions of the Constitution can be amended by the union Parliament and half of the state legislative assemblies. If the Parliament is to amend the Constitution for the purpose of altering the boundary of a state, the opinion of the concerned State Legislative Assembly is sought before moving such a bill in the Parliament.

e) Electoral Functions

The elected members of State Legislative Assembly take part in the election of the President of India. The members of Rajya Sabha will be elected through indirect election by the legislative assemblies of the concerned states. 1/3rd of the Legislative Council members

are elected by concerned State Legislative Assembly. The State Legislative Assembly elects the members of various legislative committees. The legislative Assembly elects the Speaker and Deputy Speaker

f) Other Functions and Powers

The State Legislative Assembly serves as a forum of public opinion. It also acts as a training school for the newly elected members. It requests the Parliament through a resolution either for the creation or abolition of the Legislative Council.

7.3 Legislative Council (Vidhan Parishad)

The Legislative Council is the Upper House or Second Chamber of the State Legislature in India. The Member of Legislative Council is called M.L.C. There are 7 states having Legislative Councils. The membership of the Legislative Council cannot be normally less than 40 and not more than 1/3rd of the total membership of the Legislative Assembly of the State. At present, the Legislative Council of Andhra Pradesh consists of 58 members. In fact, the existence of Legislative Council depends upon the will of the Legislative Assembly and the enactment of the Union Parliament. The Parliament has authority to make legislation for creating or abolishing the Legislative Council on the request of the concerned State Legislative Assembly.

Composition of Legislative Councils in some States in India

S.No	State	Total Membership
1	Andhra Pradesh	58
2	Bihar	75
3	Jammu & Kashmir	36
4	Karnataka	75
5	Maharashtra	78
6	Telangana	40
7	Uttar Pradesh	100

7.3.1 Composition

The members of Legislative Council are partly elected and partly nominated. The election is an indirect one. In this regard the principle of proportional representation by means of a single transferable vote is followed. There are mentioned five different categories of representation in the Legislative Council. They are as follows:

- i) 1/3rd of the total members are elected by an electorate consisting of members of local self bodies i.e., Municipalities, Municipal Corporations, District Boards, etc. in the State.
- ii) 1/3rd of the total members are elected by the Members of Legislative Assembly
- iii) 1/12th of the total members are elected by the electorate consisting of university graduates or other possessing equalent qualifications
- iv) 1/12th of the total members are elected by the electorate consisting of Secondary School Teachers or those in higher educational institutions with at least 3 years of experience in teaching.
- v) The remaining 1/6th members are nominated by the Governor on the basis of their special knowledge or practical experience in literature, science, arts, co-operative movement or social service.

7.3.2 Qualifications

A person who wishes to contest for the membership of the State Legislative Council must possess the following qualifications.

- a) He should be a citizen of India
- b) He should have completed 30 years of Age.
- c) He should possess such other qualifications as laid down by an Act of Parliament.

7.3.3 Tenure

The Legislative Council is a quasi-permanent house. 1/3rd of the members of this House retire every two years. But the term of each member is six years. New members are elected in the place of retired members. All the members of the House do not retire at a time as it is a permanent House. The Legislative Council meets at least twice a year. Generally it meets as and when the Legislative Assembly meets.

7.3.4 Chairman and Deputy Chairman

There will be a Chairman and a Deputy Chairman in the Legislative Council for conducting the meetings. They are elected by the members of the Legislative Council among themselves. Dr. A. Chakrapani Yadav is the present Chairman of Legislative Council of Andhra Pradesh.

Succession List of Chairpersons of the Legislative Council

S.No	Name of the Chairman	Term
1	Madapati Hanumantha Rao	1958-64
2	Gottipati Brahmaiah	1964-66
3	Pidathala Ranga Reddy	1968-72
4	Kota Ramaswamy	1972-74
5	Nivarthi Venkata Subbaiah	1974-81
6	Syed Mukha Sirsha	1981-81
7	K. Kesav Rao (Acting)	1981-85
8	A. Chakrapani Yadav	2007-Till date

7.3.5 Powers and Functions of Chairman

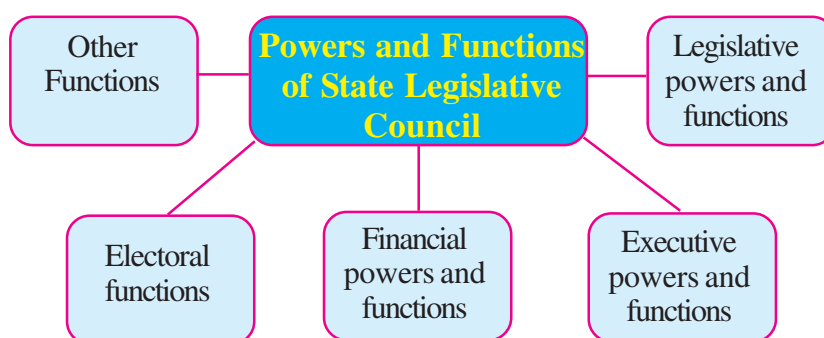
As a presiding officer, the powers and functions of Chairman in the Council are similar to those of the Speaker in the Legislative Assembly. However, the Speaker has one special power which is not enjoyed by the Chairman of the Council. The Speaker of Legislative Assembly decides whether a bill is Money Bill or not and his decision on this is final. But the Chairman of the Council has no such power.

7.3.6 Powers and Functions of Deputy Chairman

The Deputy Chairman performs the duties of the Chairman in the absence of the chairman. He also acts as the chairman of the Legislative Council when it remains vacant. He holds office until a new Deputy Chairman is selected.

7.4 Powers and Functions of State Legislative Council

State Legislative Council is the primary law making body along with the Legislative Assembly. The State Legislative Council has the following powers and functions:



a) Legislative Powers and Functions

The Legislative Council does not possess equal powers and functions when compared to its counterpart, State Legislative Assembly. It is said that the Legislative Council enjoys equal status and not power. However it exercises the following powers and functions. All the bills, other than money bills may be introduced in either of the House. They will be sent to the assent of the Governor only with the approval of both the Houses. The Council may reject any bill and sent it back for the reconsideration of the Assembly. However, incase of a disagreement between two Houses, the decision of the Assembly will be supreme. The Council must approve all the bills sent by the Assembly with in a period of three months or at the maximum of four months. It implies that the Council can withhold its assent over the bills sent by the Assembly for a maximum period of four months. Thus, the Legislative Council can only delay the bills but the legislative Assembly can override it.

b) Executive Powers and Functions

The State Legislative Council has very limited executive powers when compared to that of the Assembly. The Council of Ministers headed by the Chief Minister is responsible for its acts only to the Assembly and not to the Council. The Council cannot decide the future of the Council of Ministers. However, the Council can influence the policies and programmes of the ministers by asking questions and supplementary questions by drawing the call attention motion etc., but they cannot force the Council of Ministers to resign.

c) Financial Powers and Functions

The Legislative Council has only limited powers in the financial matters. Money bills cannot at first be introduced in the Legislative Council first. The Council must accept all money bills with or without recommendation within fourteen days of the receipt of the bill. The Assembly possess the discretion powers either to accept or reject these recommendations. If the Council does not return the Money Bill to the Assembly within 14 days, then the bill is deemed to have been passed by both the Houses. It is clear that in the financial field the Legislative Council has a subordinate status and that Legislative Assembly has dominant position.

d) Electoral Functions

The Legislative Council elects a Chairman and Deputy Chairman to preside over its meetings in a dignified manner. Some of its members are elected to various legislative committees like Public Accounts Committee, Estimates Committee and Public Undertakings Committee etc.

e) Other functions

The Legislative Council acts as the best means for formulating and consolidating public opinion. It helps in the provision of special representation to eminent persons in the fields of Arts, Literature, Social Services and Co-Operative Movement. The Council discusses technical and other contemporary matters, as there are experts in various fields.

7.5 Supremacy of Legislative Assembly over the Legislative Council

1. The very existence of the Legislative Council depends on the will of the State Legislative Assembly.
2. The Council of Ministers shall be responsible to the legislative Assembly only.
3. The Legislative Assembly is more powerful than Legislative Council because legislative Assembly is elected by the people directly.

7.6 Position of the State Legislature

In a federal form of government, the state legislature plays a key and pre-dominant role at the state level administration. In fact, the efficiency of the government or the cabinet lies with the effective functioning of the state legislature. The experiences of veteran members of the Legislative Council from all fields help the cabinet as well as the government. The suggestions of the well experienced members will help for bettering of the government. The state legislature will play a decisive role in guiding and controlling the state cabinet. The State Legislature safe guards the public interest on all occasions. In fact, the elections to the State Legislative Assembly will be held keeping in view that which party gives better administration and politics. It may be noted that the state legislatures in India are not sovereign legislatures as that of Union Parliament.

7.7 Brief History of Andhra Pradesh Legislature

The Andhra state was formed on October 1, 1953 after a long drawn struggle by the people of Andhra and the sacrifice of Sri Potti Sriramulu. It was bifurcated from the erstwhile Madras State and was made an independent state with Kurnool as capital. Andhra State Legislature initially had 140 MLAs . Elections were held to the Andhra State Legislative Assembly for the first time in 1955.

As per the recommendations of States Reorganization Committee, Hyderabad State was merged with Andhra State on linguistic basis and formed into Andhra Pradesh State which had 245

MLAs (Including 105 MLAs of Hyderabad State). Elections were held to the Andhra Pradesh Legislative Assembly in 1957.

The state Legislative Council was established on July 1, 1958. Since then it continued to exist till June 1, 1985, before being abolished. Again, on March 30, 2007 the Andhra Pradesh Legislature became again bicameral after the revival of the Legislative Council. On June 2, 2014, the state of Andhra Pradesh got bifurcated to form a new state of Telangana, as per the AP Re-organization Act 2014.

7.9 Legislative Committees

Indian Constitution provides proper creation of Legislative Committees like Public Accounts Committee, Estimates Committee etc., to control the revenue and expenditure of various departments of the government. Being a Welfare State the governmental functions have enormously increased. In the same way the legislative functions also increased due to the changes in law making system. In order to avoid the over burden on state legislature, various committees came into existence i.e., Public Accounts Committee, Estimates Committee and Committee on Public Undertakings. These committees play a pre-dominant role in supervising revenues and expenditure of various departments and see whether they are properly incurred or not and objectives are fulfilled or not.

Our Constitution does not directly provide any provision for setting up of committees either in Parliament or State Legislature. These committees are created following the British legacy and an indirect recognition of the committee system is found in Articles 105 and 194 of the Indian Constitution, which are mentioned as a part of the privileges of the members of either the Parliament or the State Legislature. Several scholars narrated these committees as ‘mini legislatures’.

7.9.1 Types of Committees

As envisaged by Constitution-makers, Indian Parliament and State Legislatures have setup many committees to perform variety of functions. Broadly speaking, the committees are of two types, i.e., Standing Committees and Ad-hoc Committees.

- i. Standing Committees:* Standing Committees deal with specific business (financial matters) ex:- Estimates Committee, Public Accounts Committee and Committee on Public Undertakings are the some of the examples for standing committees.
- ii. Ad-hoc Committees:* Ad-hoc Committees are concerned with the matters of temporary nature. They cease to exist after completion of the work. They perform some specific functions assigned to them from time to time.

Organization of Committees

According to the Rules of Procedure and Conduct of Business in the Legislative Assembly, each of the committees consist of 15 members, elected among the members of the Assembly and five members elected from among the members of the Legislative Council. The method of election for all the committees is the proportional representation by means of single transferable vote. Most of the members elected to the committees belong to political parties. They hold office for a period of one year. When the elections are not held in a particular year, the existing members of the committees will continue in office until the new members are elected. The Speaker nominates the Chairmen of these committees. Normally, the Chairman belongs to Legislative Assembly. All members in the Estimates Committee belong to Legislative Assembly only. The Chairman of Estimates Committee belongs to the party in power. On the other hand, the Chairman of Public Accounts Committee hails from the Opposition Party. The Chairman of Estimates Committee and Public Accounts Committee are nominated by the Speaker.

7.9.2 Estimates Committee

According to the Rules of Procedure and Conduct of Business in the State Legislature, the Estimates committee consists of 20 members. Among them 15 members belong to Assembly. The remaining 5 members belong to Legislative Council. The members hold office for a period of one year. They are elected through an indirect election.

Functions

The functions of the Estimates Committee in the State Legislature are the same as that of Estimates Committee of Lok Sabha. These are given hereunder:

1. Estimates Committee exercises control over public expenditure
2. It suggests fiscal reforms in organization, the efficiency or administration reforms consistent with the policy underlying estimates.
3. It advises alternative policies for securing efficiency and economy in administration.
4. It examines whether the money is well laid out within the limits of the policy implied in the estimates.
5. It also suggests the form in which the estimates shall be presented to the Assembly.

7.9.3 Public Accounts Committee

We have borrowed this system of Public Accounts Committee from Great Britain where it was established as early as in 1861. Under Indian Constitution, the Parliament derives its powers to setup such a committee as per Article 118. Similar power has been conferred on state legislatures by Article 208 of the Constitution.

Public Accounts Committee consists of 20 members out of which 15 members belong to Assembly and 5 members belong to Legislative Council. They are elected through indirect election by following the principle of proportional representation for a period of one year. The Chairman is normally the member of Opposition Party. The Ministers of Cabinet cannot be member of Public Accounts Committee.

Functions

Public Account Committee performs the following functions:

1. The committee examines the accounts showing the appropriation of sums granted by the house for expenditure of the state government.
2. It scrutinizes the appropriation accounts of the state and the reports of the Comptroller and Auditor General.
3. It shall be the duty of the Public Accounts Committee to examine such a trading, manufacturing and profit and loss accounts and balance sheets and the accounts of the state government and also to consider the report of the Comptroller and Auditor General.
4. The committee carefully considers the accounting and audit procedures.
5. The committee is not concerned with the question of policy approved by the legislature.
6. The committee investigates expenditure after it has already incurred. An overall, this committee is generally described as a 'post-mortem committee'.

Despite the comments leveled against the Public Accounts Committee, indeed, it has been doing a very useful job. In the opinion of James Read "Committees are the eyes, ears and hands of legislature and sometimes these become the very brain of the legislature".

Summary

Most of the states in India have Unicameral Legislative bodies. While the Legislative Assembly is the lower House, the Legislative Council is the Upper House in some states. Every bill becomes law when it is approved by these two Houses. The Chief Minister enjoys the real executive powers as leader of the Legislative Assembly. He acts according to the directions of the Governor in the state on all occasions. The Speaker of the lower house is also entitled to perform a very powerful and significant role with regard to the Assembly. A close study of this chapter enriches the knowledge of the student about the State Legislature. The student will be able to understand the significance of the State Legislature in Indian political system.

QUESTIONS**I. Long Answer Questions**

1. Explain the composition, powers and functions of the State Legislative Assembly.
2. Write briefly the composition, powers and functions of the State Legislative Council.
3. Explain the role and responsibilities of the Speaker of Legislative Assembly.

II. Short Answer Questions

1. Write a note on the Legislative Assembly.
2. Write a note on Estimates Committee.
3. What do you know about Public Accounts Committee?
4. Write the powers and functions of Vidhana Sabha Speaker.

III. Very Short Answer Questions

1. Qualifications of M.L.A.
2. Qualifications of M.L.C.
3. Quorum
4. Salaries and Allowances of M.L.A.
5. Privileges of State Legislature.
6. Brief History of AP Legislature
7. Chairman of Legislative Council
8. Deputy Speaker
9. Deputy Chairman of Legislative Council
10. Types of Committees

CHAPTER 8



State Judiciary

- 8.0. *Introduction*
- 8.1. *High Court*
- 8.2. *Power and Functions*
- 8.3. *District Level Judiciary*
- 8.4. *State Advocate General*
- Summary*
- Questions*

8.0 Introduction

The term 'Judiciary' is used to designate those officers of government whose function is to apply the existing law to individual cases. While applying laws to individual cases they keep in view the standards of 'fairness' and 'reasonableness'. The Judiciary is main pillar of the democracy. It is the rule adjudication agency of the polity. It acts as the guardian of the rights of the citizens by protecting their against the encroachment of government or private persons. Every citizen looks to the judiciary to protect his rights. Hence, Judiciary plays an important role in protecting the rights and liberties of the people, settling disputes, interpreting the laws and protecting the spirit of the Constitution.

The State judiciary is the third organ of the state government. The Constitution of India provided a single integrated judicial system of courts for the Union as well as the States. It interprets the State laws and acts as the head of the entire judicial system in the State. Ofcourse it works under the supervision of the Supreme Court. In biref the High Court operates below the Supreme Court but above the subordinate courts. The judiciary in a State consists of a High Court and a

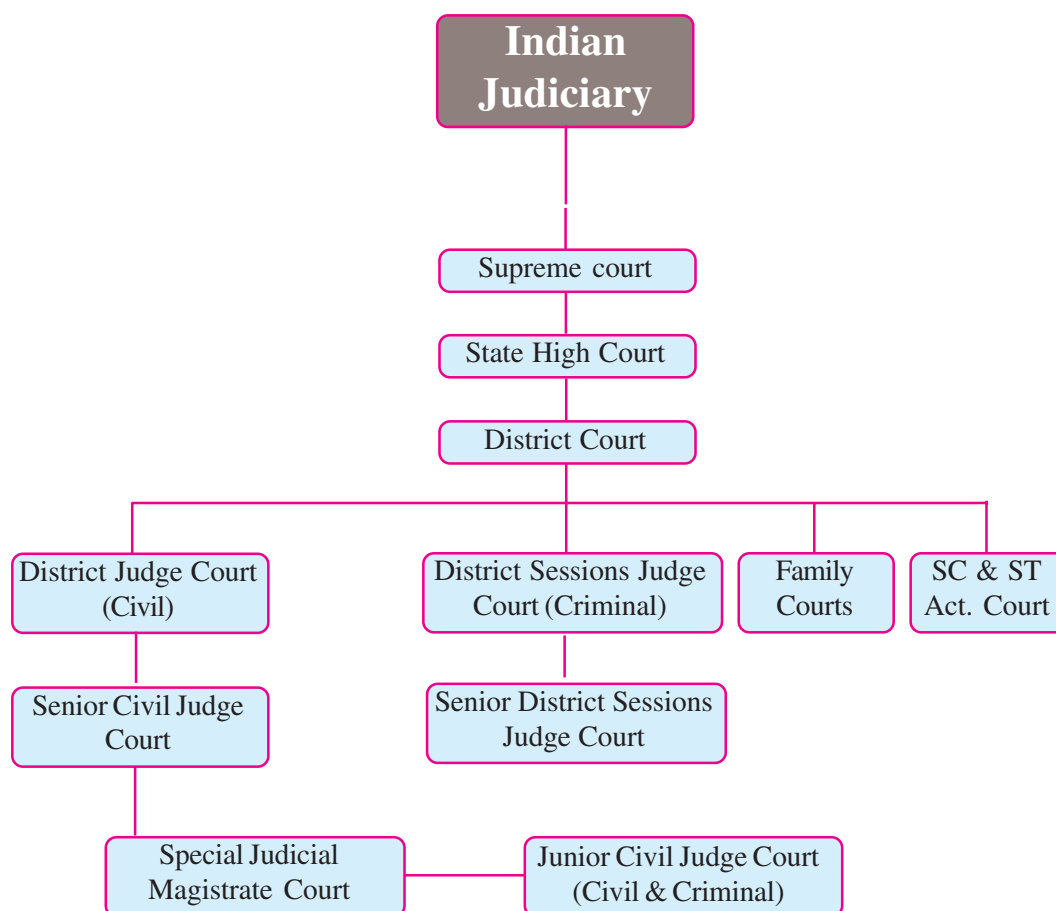
hierarchy of subordinate courts. So the High Court occupies as highest position in the judicial administration of a State.

8.1 The High Court

The institution of High Court originated in India in 1862 when three High Courts were set up at Calcutta, Bombay and Madras. In 1866 a fourth High Court was established at Allahabad. In course of time, each province in British India came to have its own High Court. After 1950, a High Court existing in a province became the High Court for the corresponding State.

The Constitution of India provides for a High Court for each State, but the 7th Amendment Act 1956 authorized the Parliament to establish a common High Court for two or more States and a Union Territory. Most of the States in India have a High Court of their own. All other subordinate courts and tribunals have to carry their functions subjected to the authority of High Court.

Articles 214 to 231 in Part VI of Constitution deal with the organization, qualifications, appointment, independence, jurisdiction, powers, and procedures etc., of the High Court.



At present there are 24 High Courts in India. Out of them, four are the common High Courts. Delhi is the only Union Territory that has a High Court of its own. The other Union Territories fall under the jurisdiction of different State High Courts. The Union Parliament can extend or exclude the jurisdiction of a High Court to any Union Territory.

8.1.1 Composition

Every High Court shall consist of a Chief Justice and some other Judges. The President of India may appoint them from time to time. Besides, the President has the power to appoint Additional Judges for a temporary period not exceeding two years as an acting Judge, where a permanent Judge of a High Court is temporarily absent or unable to perform his duties. Such Judges hold office until the permanent Judge resumes his office. The number of Judges varies from 5 in Gauhati High Court to 48 in the Allahabad High Court. Our Constitution does not specify the exact strength of High Court judges and leaves it to the discretion of the President. Accordingly, the President determines the strength of a High Court from time to time depending upon its workload.

8.1.2 Appointment of Judges

The Chief Justice of High Court is appointed by the President after consultation with the Chief Justice of India and the Governor of the concerned State. The other judges of High Court are appointed by the President with the consultation of the Chief Justice of High Court of the concerned State. In case of a common High Court for two or more States, the Governors of concerned States are consulted by the President.

8.1.3 Qualifications of Judges

A person to be appointed as judge of High Court should possess the following qualifications.

- a. He should be a citizen of India.
- b. He should have held a judicial office in the territory of India for at least 10 years,
or
- c. He should have been an advocate of a High Court or of two or more such courts for 10 years period. However, the Constitution has not prescribed a minimum age for appointment as a judge of a High Court.

8.1.4 Salaries and Allowances

The salaries, allowances, privileges, leave and pension of the judges of a High Court are determined by the Parliament from time to time. The Judge of a High Court gets a salary of Rs. 80,000/- per month and the Chief Justice gets Rs. 90,000/-. They are also entitled to get other allowances and are provided with free accommodation and other facilities like medical,

car, telephone etc. The salaries and allowances cannot be reduced except under financial emergency. Their salaries and allowances are drawn from the Consolidated Fund of the State. The retired Chief Justice and other judges are entitled to 50% of their last drawn salary as monthly pension.

8.1.5 Tenure

Every Judge of a High Court including Chief Justice holds office until he attains the age of 62 years. The Judges including the Chief Justice will take oath in the presence of the Governor of the concerned State. He can resign for his office when he desire so by writing to the President to that effect.

8.1.6 Method of removal

A Judge of a High Court can be removed by the President on the grounds of proved misbehavior or incapacity. The method of removal of a Judge of the High Court shall be the same as that of a Judge of the Supreme Court.

8.1.7 Transfer of High Court Judges

The President can transfer a judge from one High Court to another after consulting the Chief Justice of India. On transfer, he is entitled to receive in addition to his salary such compensatory allowance as may be determined by the Parliament.

8.1.8 Acting Chief Justice of High Court

The President can appoint a duly qualified judge of a High Court as an acting Chief Justice of the High Court when:

- a) the office of Chief Justice of the High Court is vacant, or
- b) the Chief Justice of the High Court is temporarily absent, or
- c) the Chief Justice of the High Court is unable to perform the duties of his office.

8.1.9 Additional Judge of a High Court

The President can appoint a duly qualified person as additional judge of a High Court for a temporarily period not exceeding two years when:

- a) there is a temporary increase of work in a High Court, or
- b) there is pending of work in the High Court. The additional judge cannot hold office after attaining the age of 62 years.

8.1.10 Acting Judge of a High Court

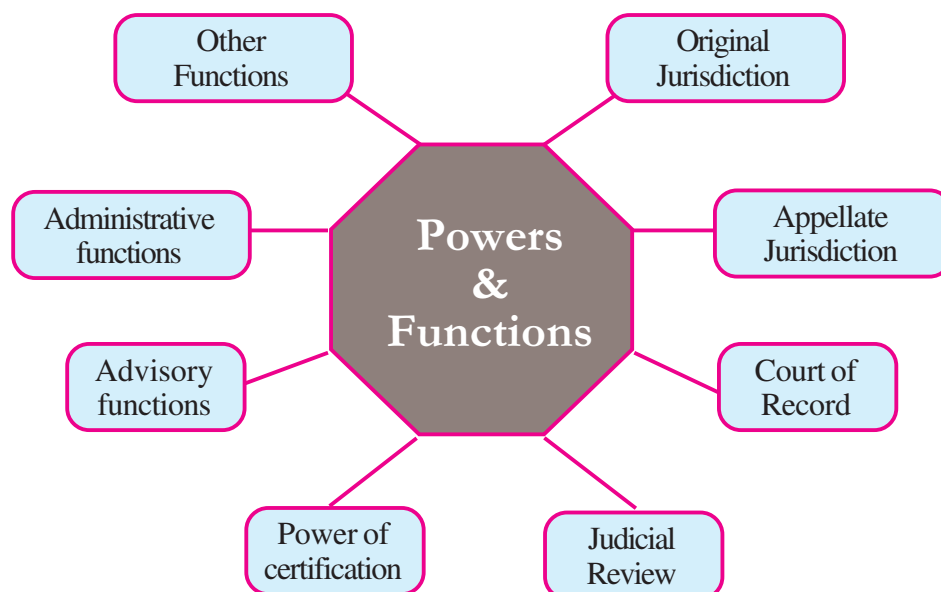
The President can appoint a duly qualified person as an acting judge of a High Court when a judge of that High Court is unable to perform the duties of his office due to absence or any other reasons. The acting judge shall hold office until the permanent judge resumes his office. However, the acting judge cannot hold office after attaining the age of 62 years.

A Profile on High Courts of India

S. No	Name	Year	Jurisdiction	Seat
1	Allahabad	1866	Uttar Pradesh	Allahabad (Bench at Lucknow)
2	Andhra Pradesh	1954	Andhra Pradesh, Telangana Hyderabad	
3	Bombay	1862	Maharashtra, Dadar & Naga Haveli, Goa, Damana & Diu	Bombay (Bench at Nagpur, Panaji and Aurangabad)
4	Kolkata	1862	West Bengal, Andaman & Nicobar Islands	Kolkata (Bench at Portblair)
5	Delhi	1966	Delhi	Delhi
6	Gauhati	1948	Assam, Manipur, Nagaland, Tripura, Mizoram and Arunchal Pradesh	Gauhati (Benches at Kohima, Imphal, Agartala and Shillong)
7	Gujarat	1960	Gujarat	Ahmedabad
8	Himachal Pradesh	1966	Himachal Pradesh	Shimla
9	Jammu & Kashmir	1928	Jammu & Kashmir	Srinagar & Jammu
10	Karnataka	1884	Karnataka	Bangalore
11	Kerala	1958	Kerala & Lakshadweep	Ernakulam
12	Madhya Pradesh	1956	Madhya Pradesh	Jabalpur (Bench-Raipur)
13	Madras	1862	Tamilnadu & Puducherry	Chennai
14	Orissa	1948	Odisha	Cuttack
15	Patna	1916	Bihar	Patna (Bench-Ranchi)
16	Punjab & Haryana	1975	Punjab & Haryana	Chandigarh
17	Rajasthan	1949	Rajasthan	Jodhpur
18	Sikkim	1975	Sikkim	Gangtok
19	Chattisgarh	2000	Chattisgarh	Bilaspur
20	Uttaranchal	2000	Uttaranchal	Nainital
21	Jharkhand	2000	Jharkhand	Ranchi
22	Manipur	2013	Manipur	Imphal
23	Meghalaya	2013	Meghalaya	Shillong
24	Tripura	2013	Tripura	Agartala

8.2 Powers and Functions

The Judges of the High Court enjoy freedom in their functioning. No person or officer shall interfere or involve in the discharge of their duties. No attempt shall be made by anyone to influence or insist on the Judges in regard to the declaration of the Judgments. Our Constitution also confers some other powers on a High Court. The following are the powers and functions of the High Court.



8.2.1 Original Jurisdiction

Every High Court in India has original jurisdiction in regard to matters of admiralty, will, marriage, divorce, company laws, contempt of court and certain revenue cases. Every High Court is empowered to issue directions, orders or writs for the enforcement of any of the Fundamental Rights. Every High Court is empowered to settle disputes relating to election of members of Parliament and State Legislatures. The High Courts of Bombay, Calcutta and Madras possess original jurisdiction in Civil as well as Criminal Cases arising within the presidency towns. They are authorized to hear Civil Cases involving property of the value of Rs. 20,000/- or more. They enjoy exclusive privileges and authority in this regard. In fact this power of High Court was in vogue before independence. It has been retained in the new Constitution. The other High Courts also enjoy the same jurisdiction as was available to them before independence.

Under Article 226, the High Courts are empowered to issue writs for enforcing Fundamental Rights. The High Courts issue writs like Habeas-corpus, Certiorari, Mandamus, Quo-warranto and Injunction for protecting the Fundamental Rights of the India Citizens. The

42nd Amendment Act (1976) of the Constitution took away this authority. However, the 43rd Amendment Act again restored it.

8.2.2 Appellate Jurisdiction

Every High Court hears appeals against the judgment of the subordinate courts. The appellate Jurisdiction of the High Court extends to both Civil and Criminal Cases.

- a. **Civil Cases :** An appeal to the High Court on the civil side is either a first appeal or a second appeal. In civil cases, appeal to the High Court lies from the decision of a District Court. Appeals can also be made from the subordinate courts directly provided the dispute involves a value of more than Rs. 5,00,000/- (or) a question of fact of law. When a court subordinate to the High Court decides an appeal differing from the decision of an inferior court, a second appeal can be made to the High Court.
- b. **Criminal Cases :** In Criminal cases, it hears the appeals in which the accused has been sentenced to more than seven years imprisonment by the Sessions Judge. All cases involving capital punishment awarded by the Sessions Court come to High Court as appeals. Its approval is necessary for the imposition of death sentences by the District Sessions Judge. It also hears cases involving the interpretation of the Constitution.

8.2.3 A Court of Record

The State High Court acts as a Court of Record. It punishes persons for contempt of court, either with simple imprisonment or with fine or with both. It records all its decisions and Judgments. Such records are of great significance. They carry evidentiary value. They are taken as Judicial precedents and cannot be questioned as refer to or produced before any court of law within the State. The power of the court of record to the High Court gets under Article 215 of the Constitution which is similar to that of the power of the Supreme Court as under Article 129.

8.2.4 Power of Judicial Review

The State High Court possesses the power of judicial review like the Supreme Court. It is the power of High Court to examine the Constitutionality of legislature enactments and executive orders of both the Central and State Governments. On examination, if they are found to be violated of the Constitution (*Ultra Vires*), they can be declared as illegal, unconstitutional and invalid (*null and void*) by the High Court. Consequently, they cannot be enforced by the government. The 42nd Amendment Act, 1976 curtailed the judicial review power of High Court. It debarred the High Court from considering the Constitutional validity of any central law. However, the 43rd Amendment Act, 1977 restored the original position to High Court of the State.

8.2.5. Power of Certification

High Court certifies certain cases which can go to the Supreme Court. That appeals which go to Supreme Court depend up on the issue of a certificate by the High Court.

8.2.6 Advisory functions

The High Court is consulted by the State Governor in the matters of appointment, posting and promotion of District Judges and in the appointment of personnel to the Judicial Services of the State (Other than District Judges). It deals with the matters of posting, promotion, grant of leave, transfers and discipline of the members of the Judicial Service of the State. It also renders advice to the subordinate courts in the matters of public interest or of legal importance.

8.2.7 Administrative functions

The High Court exercises certain administrative functions within its territorial jurisdictions.

- a. Under Article 227, every High Court has the power of supervision over all Courts and Tribunals functioning in its territorial jurisdiction except Military Courts or Tribunals in the State.
- b. It ensures the proper working of these courts. It exercises the power to make and issue general rules and regulations for securing the efficient working of the court.
- c. The High Court can transfer any case from one court to another court under Article 228 and can even transfer the case itself and decide the same.
- d. The High Court has the power to investigate or enquire into the records or other connected documents of any court subordinate to it.
- e. It appoints its administrative staff and determines the salaries and allowances and other conditions of the personnel working in subordinate courts.
- f. It is empowered to withdraw any case involving the interpretation of the Constitution and dispose of the case itself.
- g. The High Court is the Highest Court of Justice in the State. All other Courts and Tribunals (except Military Courts and Tribunals) in State function under the direct supervision and control of the State High Court.

8.2.8 Other functions

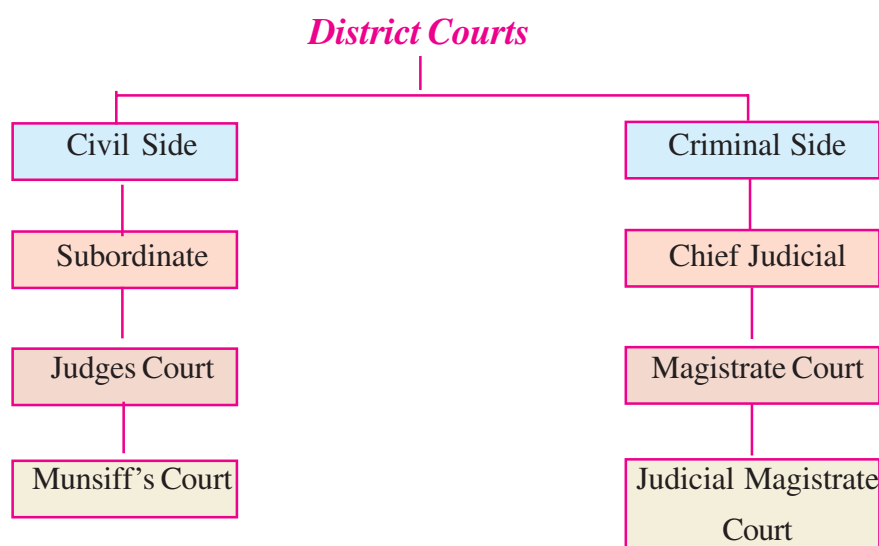
- a. The High Court acts as the District Court where its head quarters are located.
- b. The Chief Justice of the High Court acts as the Governor on the direction of the President tentatively whenever the vacancy arises in that office.
- c. The High Court can admit Public Interest Litigation like the Supreme Court of India.

8.3 District Level Judiciary

The State judiciary consists of a High Court and a hierarchy of Subordinate Courts also known as District Courts. The District Courts play an important role in judicial administration at the district level. The courts consist of District Judge and other Judges. They fulfill their obligations at the District, Town and Major Village levels. They hear civil and criminal cases. They are subject to the authority and control of the State government in administrative matters and to the State High Court in judicial matters. This judicial system has been continued since the British period.

The Subordinate Courts derive their authority from two important codes i.e., Civil Procedure Code 1908 and Criminal Procedure 1973 and other local statutes.

8.3.1. District Courts



In every State, there is system of subordinate courts below the High Court. Indian Constitution safeguards the independence of subordinate judiciary. Articles 233 to 237 in Part VI of our Constitution deal with the matters relating to the subordinate courts. Article 233 deals with appointment of persons, the posting and promotion of District Judges in any State. They shall be made by the Governor of the State in consultation with the High Court. The District Judge is the highest judicial authority in the district. He possesses original and appellate jurisdiction in the both civil as well as criminal matters. In other words, the District Judge is also the Sessions Judge. When he deals civil cases he is known as the District Judge, when he hears the Criminal Cases he is called as the Sessions Judge. He exercises both judicial and administrative powers. He also has supervisory powers over all the subordinate courts in the district.

8.3.2 Appointment and Qualifications of District Judges and other Judges

The appointment, posting and promotion of a District Judge in a State are made by the Governor of the State in consultation with the High Court.

A person to be appointed as district judge should have the following qualifications:

- a) He should not be already be in the service of the Central or the State Government
- b) He should have been an advocate or a pleader with seven years of experience
- c) He should be recommended by the High Court for appointment.

The appointment of other judges (other than district judge) to the Judicial Service of a State is made by Governor of the State after consultation with the State Public Service Commission and the High Court.

There are two types of subordinate courts in a State namely : (1) Civil Courts, and (2) Criminal Courts

8.3.3 Civil Courts

The Civil Courts deal with civil suits regarding the matter like marriages, divorce, inheritance, business etc. There will be District Civil Courts at the District Level. The District Judge acts as its head. He exercises control and supervision over other civil courts in the district.

There are some senior civil judge courts below the rank of the district civil courts. There are some other junior civil judge courts in addition senior civil judge courts. Judicial officers of subordinate courts are given here under:

- (1) Principal District Judge
- (2) Family Court Judge
- (3) SC & ST Act Court Judge
- (4) Senior Civil Court Judge
- (5) Junior Civil Court Judge

The Principal District Court admits the cases pertaining to an amount of Rupees 10 Lakhs and above worth of property and deliver the judgments. The Principal District Judge is appointed through direct as well as indirect recruitment (By promotion).

The Family Courts are presided by judicial officers of the cadre of District Judges. This court takes up cases under Hindu Marriage Act relating to divorce, ordering interim maintenance, ordering custody of children etc. In order to protect Scheduled Caste and Scheduled Tribes rights and to implement SC & ST Act strictly, there is a court for the entire district.

There are some courts namely Senior Civil Judge Courts which deal with the cases of property worth rupees above one lakh and below 10 lakhs and deliver the judgments.

Cases pertaining to property worth below one lakh will be taken up by Junior Civil Judge Court and the judgments are delivered. There are some Nyaya Panchayats, Grama

Kacheries, Adalati Panchayts and so on at the lowest level in the district to deal with local legal issues.

8.3.4 Criminal Courts

The Sessions Court is the highest criminal court in the district. The Sessions court acts as the superior court at the district level in handling the criminal matters. The Sessions Judge delivers judgments according to the provisions mentioned in the Indian penal code and the criminal procedure code. The following judges deal with at the district level.

They are: (1) District Sessions Judge
(2) Senior Assistant Sessions Judge
(3) Junior Civil Judge
(4) Special Judicial Magistrate

The Principal District Judge will act as District Sessions Judge, who deals with the cases relating to murder and motor vehicles act violation cases and delivers the judgment and imposes life imprisonment or death sentences which are to be confirmed by the State High Court. The Senior Assistant Sessions Judge will impose an imprisonment of five to seven years, depending on the nature of the case.

If there is a Junior Civil Judge Court for the entire town the court acts as a civil as well as a criminal court and take up the cases and deliver judgment and impose imprisonment below three years. There are Second Class Magistrate Courts which deliver the judgment by imposing fine up to rupees five hundred or a sentence of one year or both.

Special Judicial Magistrate Courts will be established in every town which takes up petty cases and deliver the judgment by imposing fines below Rs. 500/- and impose imprisonment below six months.

8.4 State Advocate General

Every State in Indian Union shall have an Advocate General, an official corresponding to the Attorney-General of India. He performs similar functions for the State that of the Attorney-General of India. He is the highest law officer in the State.

8.4.1 Appointment

The Advocate General is appointed by the Governor of the State under the Article 165 of the Constitution. A person to be appointed as Advocate General must possess the following qualifications.

- a) He should be a citizen of India
- b) He must have held a judicial office for ten years or an advocate of a High Court for ten years
- c) He must be a person who is qualified to be appointed a judge of a High Court.

8.4.2 Tenure

The Constitution of India did not mention the tenure of Advocate General. Further, the Constitution does not contain the procedure and grounds for his removal. He holds office during the pleasure of the Governor. He may be removed by the Governor at any time. He may also quit his office by submitting his resignation to the Governor. Conventionally, he resigns when the government resigns or is replaced, as he is appointed on the advice of the government. His remuneration is not fixed by the Constitution. He receives such remuneration as the Governor may decide from time to time.

8.4.3 Powers and Functions

As the highest law officer of the State Government, he exercises the following powers and functions:

- i) He advises the State government upon such legal matters which are referred to him by the Governor.
- ii) He performs such other duties of a legal character that are assigned to him by the Governor.
- iii) He discharges the functions and conferred on him by the Constitution.
- iv) He appeared before any court of law within the State.
- v) He has a right to speak and to take part as member in the proceedings of the house(s) but no right to vote.
- vi) He can also attend any of the Standing Committee meetings of State Legislature.

Summary

Indian Constitution provided a single integrated judicial system of courts at the Union as well as the State levels. The apex court in the state, i.e., the High Court, administers the State laws and act as the head of the entire judiciary system in the State under the supervision of the Supreme Court. The State judiciary is the third organ of the State government along with the legislature and executive. After the High Court, the District Courts play an important role in judicial administration at the district level in the state. The courts consists of District Judge and other Judges. They fulfill their obligations at the District, Town and major village levels. They hear civil and criminal cases. They are subject to the authority and control of the State government in administrative matters and to the State High Court in judicial matters. This chapter enables the students to get full-fledged information on the State level judiciary. Lastly this chapter explains about the powers and functions of the State Advocate General.

QUESTIONS

I. Long Answer Question.

1. Explain the powers and functions of the High Court.
2. Write an essay on the District Level Courts.

II. Short Answer Questions.

1. Explain briefly the composition of High Court?
2. Write any two powers and functions of the State High Court.
3. Explain the administrative functions of the High Court.
4. Explain the powers and functions of District Court.
5. Discuss the powers and functions of State Advocate General.

III. Very Short Answer Questions.

1. Appointment of High Court Judges.
2. Qualifications of High Court Judges.
3. High Court as a Court of Record.
4. Advisory functions of High Court.

CHAPTER 9



Union - State Relations

9.0 Introduction

9.1 Union-State Relations

9.2 Legislative Relations

9.3 Administrative Relations

9.4 Financial Relations

9.5 Finance Commission

9.6 Planning Commission or NITI Aayog Functions of NITI Aayog

9.7 National Development Council

9.8 National Integration Council

9.9 Inter-State Council

9.10 Sarkaria Commission

9.11 Punchhi Commission

9.12 Tension Areas in Union-State Relations

9.13 Trends in Union-State Relations

9.14 Summary Questions

9.0 Introduction

Aristotle, the ancient Greek political philosopher and father of political science, believed and compared the State to be an organic body. As there is harmonic relationship between the different organs in a human body, so is the case between different entities in a State. Even in a human society, good and harmonious relation between individuals is a precondition for healthy living in the society. This also holds good for every State, especially Federal State. A Federal State in order to meet the aspirations of its people must also promote harmonious and frictionless relationship among the Union and State Governments. The Constitution of India which was brought into effect on 26, January 1950 established a federal type of government in India even though the word ‘federation’ was nowhere used in the Constitution. Federation means existence of two sets of governments, namely the union and states. The effect was that there are two sets of governments – one at the Centre and the other at the State level. The Indian Constitution discusses at length the relationship between the Union and States in Part XI and Part XII of the Constitution vide Articles 245-300. The salient feature of a Federal

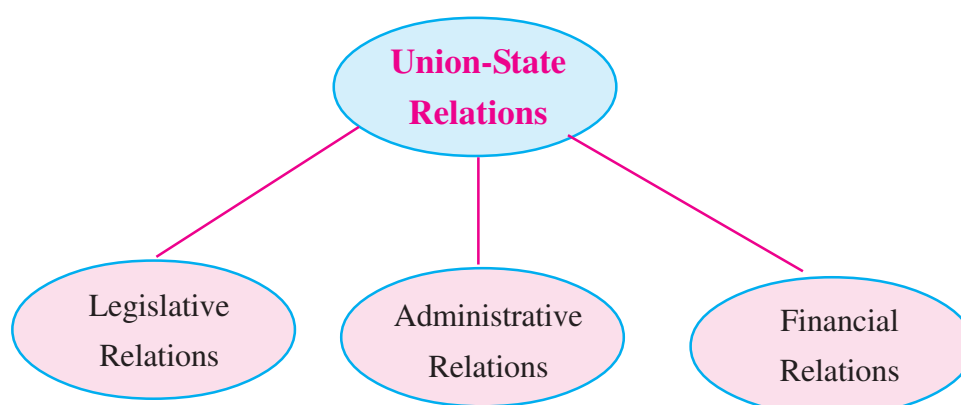
Constitution is the division of powers between the Union and the State Governments. Similarly, the Constitution of India provides for systematic division of powers between the Centre and States in all spheres namely legislative, administrative and financial. In the words of Bharat Ratna Dr. B.R. Ambedkar, “the Union is not a League of States, united in a loose relationship. Nor are the States the agencies of the Union deriving their powers from it. Both the Union and the States are created by the Constitution and both derive their authority from the constitution.”

9.1 The Union –State Relations

The Constitution of India is federal in form but is unitary in character. Strengthening the federal system is necessary to meet the aspirations of the people who are governed through State Governments and for preserving the unity and integrity of the nation. Therefore, Union-State relations, i.e. the arrangements between the Union Government and States in regard to their powers, functions and responsibilities, have always been a crucial issue.

The Constitution of India, being federal in structure, divided all the powers – legislature, executive and financial between the Union and States. However, there are no division of judicial powers as the Constitution has established an integrated judicial system to enforce both the Union as well as State laws. Part XI of Constitution discusses the legislative and administrative relations while part XII explains the financial relations between the Union and States.

The Union – State relations in India can be discussed under three heads. They are: 1. Legislative Relations, 2. Administrative Relations, 3. Financial Relations. These are given in the following diagram.



9.2 Legislative Relations (Articles 245 to 255)

Articles 245 to 255 in Part XI and Chapter I of the Indian Constitution deal with the legislative relations between the Union and the States. The Constitution of India defines the territorial limits of the legislative powers vested in the Centre and the States in the following way.

- a) The Parliament makes laws for the whole or any part of the territory of India.
- b) It can also make laws for the Union Territories.
- c) The Parliament has exclusive power to make laws with respect to any of the matters enumerated in List-I in the 7th schedule.
- d) The Parliament and the legislature of a State have powers to make laws with respect to any of the matters enumerated in the list-III in the 7th schedule.
- e) The Legislature of a State has exclusive power to make laws for such State with respect to any of the matters enumerated in the list-II in the 7th schedule.
- f) The Parliament may make laws with respect to any matter for any part of the territory of India not included in a State (UT) even if such matter may fall in the State list.
- g) The Parliament has exclusive powers to make laws with regard to any matter which is not included in any of the lists.
- h) The Parliament can make laws with respect to the State List in certain circumstances such as the matter related to national importance, during the period of national emergency, if two or more States request the Parliament to make laws and for implementing any treaty or agreement of international nature.

Subject wise Limit

The Constitution of India makes three fold distributions of legislative powers between the Union and States. List- I (the Union List), List-II (the State List) and List-III (the Concurrent List)

The Union List

The Legislative relations have been divided between the Union and States in a unique way. The Union list is a longest list. In the beginning of the constitution it consists of 97 subjects. This list has at present 100 subjects. The Union Parliament has exclusive power to make laws with respect to any of the matters enumerated in the Union List. The subjects in this list include Defence, atomic energy, matters related to the UN, Foreign Affairs, diplomatic representation, treaties with foreign states, war and peace, citizenship, Railways, National

Highways, airways, shipping, regulation and control of air traffic, post and Telegraph, Telephones, currencies, commerce and Banking, InterState Trade, Insurance, foreign loans, patents, weights waters, Union Public Service Commission, All India Services, election to Parliament etc. The laws made on these subjects are applicable to all the States and to all the citizens equally.

State List

Under normal circumstances the State Legislature has exclusive powers to make laws with respect to any of the matters enumerated in the State List. It consists of 66 subjects of provincial importance. After the 42nd Amendment, this number was reduced to 62 subjects. The State Legislatures have exclusive power to make laws on matters enumerated in this list. Some of the important subjects included in the State list are law and order, justice, jails, police, agriculture, irrigation, public health, local self government, pilgrimages, libraries, fisheries, markets and fairs and land revenue etc. These laws are only applicable to the individuals or institutions within that state only.

The Concurrent List

Both the Parliament and the State Legislatures are authorized to make laws over the subjects included in this list. There are 47 subjects of local and national importance. After the 42nd Amendment Act, 1976, their number was increased to 52. Both the Union and State Governments may enact laws on these matters. But the Union law prevails upon the laws of the States in case of conflict between the two. Some of the subjects under the Concurrent List are – forests, protection of wild animals and birds, population control and family planning, education including technical and medical education, criminal law and procedure, marriage and divorce, trusts and trustees, adulteration, trade unions, electricity, press and newspapers and weights and measures except establishment of standards etc. The Union Parliament is empowered to amend and repeal the laws made by the States or any subjects mentioned in the Concurrent List. It has power exclusively to make any law with respect of any subject not enumerated in the Concurrent List or State List. But under certain special circumstances the Union Government is empowered to abolish the powers of the states over the subjects included in the State List.

Residuary Powers

The powers which are not included in any of the above lists are called Residuary Powers. They are assigned to the union government. Ex: The power of the Parliament to impose taxes on the services sector of the economy.

9.3 Administrative Relations (Articles 256 to 263)

The Indian Constitution is federal in structure but unitary in spirit. Indian federation has a powerful Union Government. In normal circumstances the State Governments enjoy their Constitutional powers over the administrative matters within their jurisdiction. But in certain special circumstances the Union Government exercises control over the administrative affairs of the States. In the field of administrative relations too, the Union Government appears to be in powerful position in comparison to State Governments. Articles 256 to 263 in Part XI of our Constitution deal with the administrative relations between the Union and States. They are discussed under the following heads: (a) during emergencies, (b) in normal times.

9.3.1 During Emergencies

During the operation of a national emergency, the Union Government will work as a powerful body. The state governments are brought under its complete control. However, they can't be suspended by the union. When the President rule is imposed in a state the President can assume to himself the functions of the state government. He can assign such functions to the Governor. During the financial emergency, the union can direct the states to observe canons of financial propriety. The President can issue directions including the reduction of salaries of persons serving in the state government and the High Court Judges.

9.3.2 In normal times

In normal times, our Constitution has devised techniques of control over the states by the Union to ensure that the State Governments do not interfere with the legislative and executive policies of the Union. The Union Government exercises its influence over the State Governments in the following ways. The Union Government is empowered to issue directions to the State Governments in the following matters:

- a. To ensure due compliance with the Union laws in the implementation of the State laws.
- b. To ensure that the exercise of the executive power of the State does not impede the implementation of the Union laws.
- c. To ensure the Constitution and the maintenance of the means of communication of military or national importance.
- d. To ensure protection of Railways within the State.
- e. To devise and execute schemes for the welfare of the tribal communities as mentioned in the directions.

- f. To secure the provisions of the adequate facilities for the instruction in the mother tongue at the primary stage to linguistic minorities.
- g. To ensure the development of Hindi language.
- h. To entrust certain functions of the Centre to the State and its officers and the Centre will meet the additional expenditure involved in carrying out such functions.
- i. To issue directions to the State for the welfare of the Schedule Castes and Scheduled Tribes.
- j. The State Governments have to see that the laws made by the Parliament and other laws prevalent in the State are properly executed. The Union Government is empowered to give directions to the States for this purpose.
- k. The Union Government can appoint, transfer or remove the dignitaries in the State like judges of the High Court, Members of the State Public Service Commission.
- l. The President may, with the consent of the State Governments, entrust any work either conditionally or unconditionally to the state government.
- m. The Parliament can frame rules regarding the settlement of disputes between two States with regard to the use of water and boundaries.
- n. The President is empowered to constitute an Inter-State Council to advise the States in settling their disputes.
- o. The personnel belonging to All India Services working in the States are governed by the rules, regulations and service conditions laid down by the Central Government only. They can be removed only by that government.
- p. The Central Government dispatches the central resource power to the States for tackling any situation of disturbances affecting law and order conditions in the State.
- q. The Union can impose President Rule in any State if there is a breakdown of the Constitutional machinery in the State.
- r. The President is empowered to constitute a joint Public Service Commission to serve the needs of two or more States.
- s. The Election Commission, an independent Constitutional body constituted by the Central Government conducts elections of the Union and State legislatures.
- t. The Central Government is also empowered to appoint enquiry committee to conduct enquiry into the allegation leveled against the Chief Ministers of the States.
- u. The Parliament can empower to make grant in aid to any State which is in need of such assistance.

9.4 Financial Relations (Articles 268 and 293)

No system of federation can be successful unless both the Union and the States have at their disposal adequate financial resources to enable them to discharge their respective responsibilities under the Constitution. Hence, adequate finances are necessary to carry the administrative and legislative programmes of the Union and the State Governments. The Indian Constitution has clearly provided the ways to impose, collect and distribute tax proceeds between the States in order to avoid disputes between Centre and States in financial matters. Articles 268 and 293 in Part XII of the Constitution deal with the Centre-State financial relations. The relations between the Centre and the States can be discussed under the following heads:

a) *Taxes and Duties levied by the Centre*

There are certain taxes which are exclusively assigned to the Union. These include customs and exports duties, income tax, excise duties on tobacco, jute cut corporation tax, taxes on the capital value of the assets, estate duty in respect of property other than agricultural land, railways, post and telegraphs, telephones, wireless, broadcasting and other forms of communications, foreign exchange, currency and coinage etc.

b) *Taxes and duties levied and used by the State*

Certain items of revenue fall under the exclusive jurisdiction of the State. There are land revenue, taxes on goods and passengers carried by road or inland water, taxes on the consumption or sale of electricity and toll tax, duty on alcoholic liquors for human consumption, taxes on entertainment, amusement, betting, gambling etc.

c) *Taxes levied by the Union but collected and appropriated by States*

Revenue from the following items is collected and appropriated by the States. These include Stamp duties on bill of exchange, cheques, promissory notes, bills of lading, transfer of shares, excise duties on medical and toilet materials, opium etc.

d) *Taxes levied and collected by the Union but assigned to States*

The taxes on certain items are levied and collected by the Union but exclusively allotted to the States. These are: railway freight and fares, terminal taxes on goods or passengers carried by rail, sea or air, estate duty in respect of property other than agricultural land.

e) *Taxes levied and collected by the Union and distributed among the Union and the States*

There are certain items, on which the taxes are levied and collected by the Union but shared with the States. Such items are: tax on income other than agricultural income, excise duties on items other than medical and toilet materials.

f) Union Government grants-in-aid and loans to the States

The Union Government makes special provisions by two other means.

- i. **Grants-in-aid:** The Union Government provides grants-in-aid (which are not paid back) to the States for different purposes. These grants are generally given for the purpose of financing development programmes for promoting the welfare of Scheduled Castes, Scheduled Tribes and Backward Classes or budget deficit or for helping the States during natural calamities like drought, floods, earthquakes etc. The States of Assam, Bihar and Orissa are given special grants-in-aid in lieu of export duty on the export of jute goods produced in these States.
- ii. **Advancement of central loans:** Besides grants in aid, the Union Government may advance loans to the State Governments and also give security to the loans by the Union Government within the provisions of the Constitution.

g) Financial Relations between Union and States during Financial Emergency

During the proclamation of Financial Emergency, the President can give financial directions to the States. The President can suspend the grant-in-aid to the States. During such an emergency the States are left only with revenues available under the State List and the other resources can be controlled as per the wishes of the Centre. The President can issue directions to reduce the salaries and other allowances of the government employees including the judges.

9.5 Finance Commission

9.5.1 Composition

Article 280 of the Indian Constitution deals with the composition, powers and functions of the Finance Commission. The President of India constitutes a Finance Commission, a quasi-judicial body with Chairman and four members. The Chairman as well as the members is appointed by the President for a period of five years. They are eligible for reappointment. The Constitution authorizes the Parliament to decide the qualifications of the members and Chairman of the Commission. Accordingly, the Parliament has specified the qualification of the Chairman and other members of the Commission. The Commission makes recommendations to the President on the distribution of financial resources between the Union and States. The Chairman should be a person having experience in the field of public affairs of the Union or the States. The other four members of the Finance Commission should be appointed from amongst the following fields.

- a. A High Court judge or one qualified to be appointed as such.
- b. A person having special knowledge of the finances and accounts of the government.
- c. A person having wide experience in financial matters and administration.
- d. A person having special knowledge of Economics.

9.5.2 Powers and Functions

The Finance Commission reviews the financial relations between the Centre and States from time to time and makes recommendations to the President of India in the following matters:

- It makes recommendations as to what proportion of the central taxes is to be distributed among the States.
- To determine the principles that should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India.
- It also makes recommendations regarding the continuance or modifications of agreements entered into by the Union Government with any State.
- It makes suggestions on any other matter referred to the Commission by the President in the interest of financial stability.
- The functions of Finance Commission have been enlarged by 73rd and 74th Constitutional Amendment, which makes it the duty of the Commission to suggest measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayat and Municipalities in the States.
- It also holds discussions with the higher officials and prominent leaders on administrative and political affairs, and invites suggestions from the heads of various financial institutions in the country for sound financial stability.

The Finance Commission submits its report to the President of India, which is generally accepted by the Central Government. The President may or may not accept all or few of the recommendations of the Commission. These recommendations are applicable for a period of five years.

The list of Chairmen of the Finance Commission

Finance Commission	Year of constituted	Name of the Chairman	Appointed in	Period of implementation of reports	Submitted report in
First	1951	K.C. Niyogi	1951	1952-57	1953
Second	1956	K. Santhanam	1956	1957-62	1957
Third	1960	A.K. Chand	1960	1962-66	1962
Fourth	1964	P.V. Rajamannar	1964	1966-69	1964 & 1965
Fifth	1968	M. Tyagi	1968	1969-74	1969
Sixth	1972	K. Brahmananda Reddy	1972	1974-79	1973

Seventh	1977	J.M. Shelot	1977	1979-84	1978
Eighth	1983	Y.B. Chavan	1982	1984-89	1984
Ninth	1987	N.K.P. Salve	1987	1989-95	1988 & 1989
Tenth	1992	K.C. Pant	1992	1995-2000	1994
Eleventh	1998	A.M. Khusro	1998	2000-2005	2000
Twelfth	2002	C. Rangarajan	2002	2005-2010	2004
Thirteenth	2007	Vijay Kelkar	2007	2010-2015	2009
Fourteenth	2013	Dr. Y.V. Reddy	2013	2015-2020	2014

Apart from the above, the Union Government will have some extra Constitutional devices (advisory bodies) at the Union level, to promote cooperation and coordination between the Centre and the States. The most important are:

- i. Planning Commission.
- ii. National Development Council.
- iii. National Integration Council.
- iv. Inter-State Council.

9.6 Planning Commission or NITI Aayog

The Union Government set up a Planning Commission in 1950 as an extra Constitutional or non-statutory body under the Chairmanship of the first Prime Minister Jawaharlal Nehru. The main object of this Commission is to formulate an integrated Five Year Plan for economic and social development and to act as advisory body to the Union Government. It was in vogue till 1, January, 2014 when it was replaced by NITI Aayog (National Institute for Transforming India) by the Prime Minister Narendra Damodar Das Modi. The Prime Minister is the Chairman of NITI Aayog. The NITI Aayog is tasked with the role of formulating policies and directions for the government. Its governing council will consist of the Chief Ministers of all the States in Indian Union and the Lieutenant Governors of the Union Territories. Aravind Panagaria, the former Asian Development Bank Chief Economist is appointed as the first Vice - Chairman and Chief Executive Officer by the Indian Prime Minister.

Functions of NITI Aayog

The NITI Aayog will recommend a national agenda including strategic and technical advice on elements of policy and economic matters. It will also develop mechanisms for village level plans and aggregate these progressively at higher levels of Government.

9.7 National Development Council

National Development Council was set up in 1952. It is as another extra-constitutional and extra-legal body to associate the States in the formulation of the plans. The Prime Minister is the ex-officio Chairman of National Development Council. It consists of all the members of the Union Cabinet, Chief Ministers of States, all administrators of the Union Territories and Members of the Planning Commission have also been members of this Council. It acts as an executive wing of the Planning Commission. Recently, its 57th meeting was held in New Delhi on 27-12-2012.

9.8 National Integration Council

National Integration Council was set up in 1961 by the first Prime Minister Pandit Jawaharlal Nehru at New Delhi, following a decision taken at a national conference on 'Unity in Diversity', convened by the Central Government. It consists of the Prime Minister as the Chairman, Union Home Minister, Chief Ministers of the States, seven leaders of political parties, the Chairman of UGC, two educationists, the Commissioner for SCs and STs Commissions and other seven persons nominated by the Prime Minister. The Council was directed to examine the issues like Communalism, casteism, regionalism, linguistic and narrow mindedness affecting of national integration. It makes necessary recommendations in the above matters. Recently the 15th meeting of the National Integration Council was held in September, 2011 at New Delhi. It was chaired by the then UPA Government Prime Minister, Dr. Manmohan Singh. The agenda for the said meeting included the measures to curb communalism and communal violence. At present, the National Integration Council has 147 members including several Union Ministers, leaders of the opposition in Lok Sabha and Rajya Sabha, leaders of national and regional political parties, eminent journalists, the public figures, representatives of business and women's organizations.

9.9 Inter-State Council

The National Front Government set up an Inter-State Council on May 28, 1990 under Article 263 of the Constitution to resolve major issues in Centre-State relations. It comprises the Prime Minister as the Chairman. The Chief Ministers of all the States, Lieutenant Governors

of Union territories and six Union Cabinet Ministers were nominated by the Prime Minister as its members. The functioning of the Inter-State Council, which had gathered some momentum in the earlier years has once again lost steam. Despite the council arriving at several decisions regarding implementation of the Sarkaria Commission's recommendations, they have not been implemented by the Union Government. All major issues involving Centre-State relations including legislations under the Concurrent List have to be dismissed and decided by the Inter-State Council. The schedule of meeting of the Council as well as the Standing Committee of the council has to be made mandatory. It should mandatorily meet thrice a year. The last meeting was held in December, 9th, 2006. The Secretariat of the Inter-State Council should have better representation from the States.

9.10 Sarkaria Commission

Several Commissions like Administrative Reforms Commission, Rajamannar Committee were appointed prior to the Sarkaria Commission to review the Union-State relations in India.

The Union Government appointed a three-member Commission on Centre-State relations under the Chairmanship of R.S. Sarkaria, a retired judge of the Supreme Court. B. Sivaraman, S.R. Sen and Rama Subramaniam were appointed as other members. The Commission was asked to overhaul and review the working of existing arrangements between the Union and States in all spheres as and recommend such changes and measures as may be appropriate. It was initially given one year time to complete its work, but its term was extended four times. The final report was submitted on October, 27, 1987 and the summary was later officially released in January, 1988.

The Commission did not favour structural changes and regarded the existing Constitutional arrangements and principles relating to the institutions basically sound. But, it emphasized on the need for changes in the functional or operational aspects. It observed that federalism is more a functional arrangement for cooperative action than a static institutional concept. It out rightly rejected the demand for curtailing the powers of the Centre and Stated that a strong Centre is essential to safeguard the national unity and integrity which is being threatened by the fissiparous tendencies in the body politic. However, it did not equate strong Centre with centralization of powers. It observed that over-centralization leads to blood pressure at the centre and anemia at the periphery.

The Sarkaria Commission made 247 recommendations to improve the Centre-State relations. The important recommendations are mentioned below:

1. A permanent Inter-State Council called the Inter-Governmental Council should be set up under Article 263.
2. Article 356 (President's Rule) should be used very sparingly in extreme cases as a last resort when all the available alternatives fail.
3. The institution of All-India Services should be further strengthened and some more such services should be created.
4. The residuary powers of taxation should continue to remain with the Parliament, while the other residuary powers should be placed in the Concurrent List.
5. When the President withholds his assent to the State bills, the reasons should be communicated to the State Government.
6. The National Development Council (NDC) should be renamed and reconstituted as the National Economic and Development Council (NEDC).
7. The zonal councils should be constituted afresh and reactivated to promote the spirit of federalism.
8. The Union should have powers to deploy its armed forces, even without the consent of States. However, it is desirable that the States should be consulted.
9. The Centre should consult the States before making a law on a subject of the Concurrent List.
10. The procedure of consulting the Chief Minister in the appointment of the State Governor should be prescribed in the Constitution itself.
11. The net proceeds of the Corporation tax may be made permissibly shareable with the States.
12. The Governor cannot dismiss the Council of Ministers so long as it commands a majority in the assembly.
13. The Governor's term of five years in a State should not be disturbed except for some extremely compelling reasons.
14. No commission of enquiry should be set up against a State Minister unless a demand is made by the Parliament.
15. The surcharge on income tax should not be levied by the Centre except for a specific purpose and for a strictly limited period.

16. The present division of functions between the Finance Commission and the Planning Commission is reasonable and should continue.
17. Steps should be taken to uniformly implement the three language formula in its true spirit.
18. No autonomy for radio and television but decentralization in their operations.
19. No change in the role of Rajya Sabha and the Centre's power to reorganize the States.
20. Giving powers to the Municipalities to issue tax free bonds.

The Union Government has implemented 180 (out of 247) recommendations of the Sarkaria Commission. The most important is the establishment of the Inter-State Council in 1990 but it has not served the purpose.

9.11 Punchchi Commission

The UPA Government set up a Commission on Centre-State relations in April, 28m 2007 under the Chairmanship of Madan Mohan Punchchi, a retired Chief Justice of India. Vinod Kumar Duggal, Deevendra Singh, Amaresh Bagchi and N.R. Madhava Meenan were the members of the commission. The Commission was required to look into the issues of Centre-State relations keeping in view the sea-change that have taken place in Indian polity since the Sarkaria Commisison had last looked at the issue of Union-State relations over decades ago. The Commission prepared over 310 recommendations, touching upon several significant areas in the working of the Centre-State relations. It submitted its report to the Government in April, 20, 2010. However, in a number of areas the Commission report differed from the Sarkaria Commission recommendations. After a lengthy examination on the Centre-State relations, the Commission concluded that 'Cooperative Federation' will be the key for sustaining India's Unity, integrity, and social and economic development in future. The principles of cooperative federation thus may have to act as a practical guide for Indian polity and governance.

9.12 Tension areas in Union-State relations

Generally in Indian political system the following areas created tensions between the Union and States:

1. Mode of appointment of Governors.
2. Discriminatory role of Governors.

3. Use of Article 356 in the States.
4. Deployment of Central Paramilitary Forces in the States to maintain law and order.
5. Discrimination in financial allocation to the States.
6. Role of Planning Commission in approving State Projects.
7. Issue of All India Services (IAS, IPS and IFS).
8. Use of electronic media for political purpose.
9. Appointment of enquiry commissions against the Chief Ministers.
10. Demand for State autonomy.

9.13 Trends in Union-State relations

From 1950 to 1967, the Union-State relations by and large were smooth due to one-party rule (Congress Party rule) at the Centre and in majority of States in Indian Union.

In 1967 general elections in independent India, the Congress Party was defeated in nine States by the regional political parties and the position of Congress Party at the Centre became weak. This changed political scenario heralded a new political era in the Union-State relations. The non-Congress Governments in most of the States opposed the increasing centralization and intervention of the Union Government in the affairs of the States. The division of financial relations between the Centre and the States and role of Governors in dismissing the elected State Governments and in dissolving the elected State Assemblies have become controversial issues between the Union and the States. The States are demanding a bigger share in the taxes collected from the States to meet the expenditure of the developmental programmes in the State. Similarly, they want the powers of the Governor to be curtailed when recommending President Rule in the State. They raised the issue of State autonomy and demanded more powers and financial resources to the States. This naturally caused tensions and conflicts between Union and States. In order to correct this disparity in allocation, Narendra Modi Government has decided to enhance financial allocations to the State. Similarly, there is also an increasing trend of harmony in Centre-State relations where State level and central level officials are talking to each other and working together by sharing information. Even during the Government of Morarji Desai, there was difference of opinion between the Centre and States over the division of financial resources. The Union Government contention was that with increased threats from China and Pakistan there was no room for complacency in matter of defense. Hence, the Union cannot yield to any weakling of its resources as it would prejudice the defense potential of the country. On the other hand, the increasing expenditure of the States arising from their developmental activities called for more financial allocation from the Centre.

Summary

The above discussions on the legislature, administrative and financial relations between the Union and the States prove that the Constitution of India has established a strong Union Government. In the context of recent challenges to the unity and integrity of the nation, it appears to be the need of the hour. It is true that the political parties ruling at the Centre have misused the exceptional provisions to serve their own interests. If the Constitutional provisions are implemented in tune with the spirit of the Constitution, the State Governments will enjoy ample functional autonomy. The tendency of centralization is not confined to India alone but it is seen in all the federal systems of the world.

In the present context of development of means of communication and complexity of socio-economic problems and national crisis in this globalized era, the role of the Union Government is likely to increase in future. In the Indian context particularly, a strong Union Government is needed not only for national unity and integrity but also for the balanced and rapid socio-economic development of the country.

QUESTIONS

I. Long Answer Questions

1. Explain in brief the Union-State relations in India.
2. Discuss the three lists of Union-State relations.

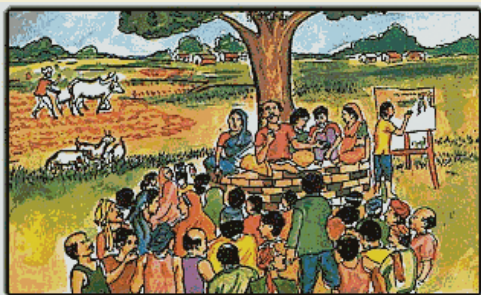
II. Short Answer Questions

1. Discuss the administrative relations between the Union and the States in India.
2. What are the financial relations between the Union and the States? Explain.
3. Examine the legislative relations between the Union and the States.
4. Explain the composition, powers and functions of the Finance Commission.
5. Evaluate the recommendations of the Sarkaria Commission.

III. Very Short Answer Questions

1. Any three relations between Union and States.
2. Union list.
3. Administrative relations during emergencies.
4. Legislative powers between the Union and the States?
5. Residuary Powers.
6. Any two extra Constitutional devices of Union Government.
7. NITI Aayog.
8. National Development Council.
9. National Integration Council.
10. Any three tension areas in Union-States relations.
11. Punchhi Commission.
12. Union-State relations.

CHAPTER 10



Local Governments in India

10.0 Introduction

10.1 Local Governments in India

10.2 Historical Background

10.3 Rural Local Governments in India

10.4 Constitution (73rd Amendment) Act 1992

10.5 Types of Rural Local Governments (Panchayat Raj Institutions)

10.6 Urban Local Governments in India

10.7 Constitution (74th Amendment) Act 1992

10.8 Types of Urban Local Governments

10.9. District Collector Summary Questions

10.0 Introduction

Local Government or Local Self Government is regarded as the heart of Indian Democracy. The success of Indian Democracy at grass root level largely depends upon the existence and efficient operation system of local government. Local Government has a long historical background in India. Local government is always a source for providing political education and training to the people without which they cannot become well-functioning and active participates in the democratic system. It is been because of this quality that all the political scientists advocate the importance of local government as the training school for democracy and development. The democratic ideals of decentralization, development and increased continuous and active popular participation in the process of nation building can be possible only through the organization and efficient working system of local government. Without a well organized system of local government, no democratic political system can be expected to become stable and real development in the state. The makers of our Constitution were fully aware of the necessity of local government for ensuring the stability, strength and health of the Indian Liberal Democratic Political system. In fact, each part of India, whether Urban or Rural is being locally administered for the satisfaction of local needs by a local government. These governments provide benefits for the people living in various corners of the state. Rural Local Governments originated and developed in India after independence on the basis of the recommendations of Balawant Rai Mehta Committee (1957). There was a special reference of these bodies in the Constitution in independent India. The Union

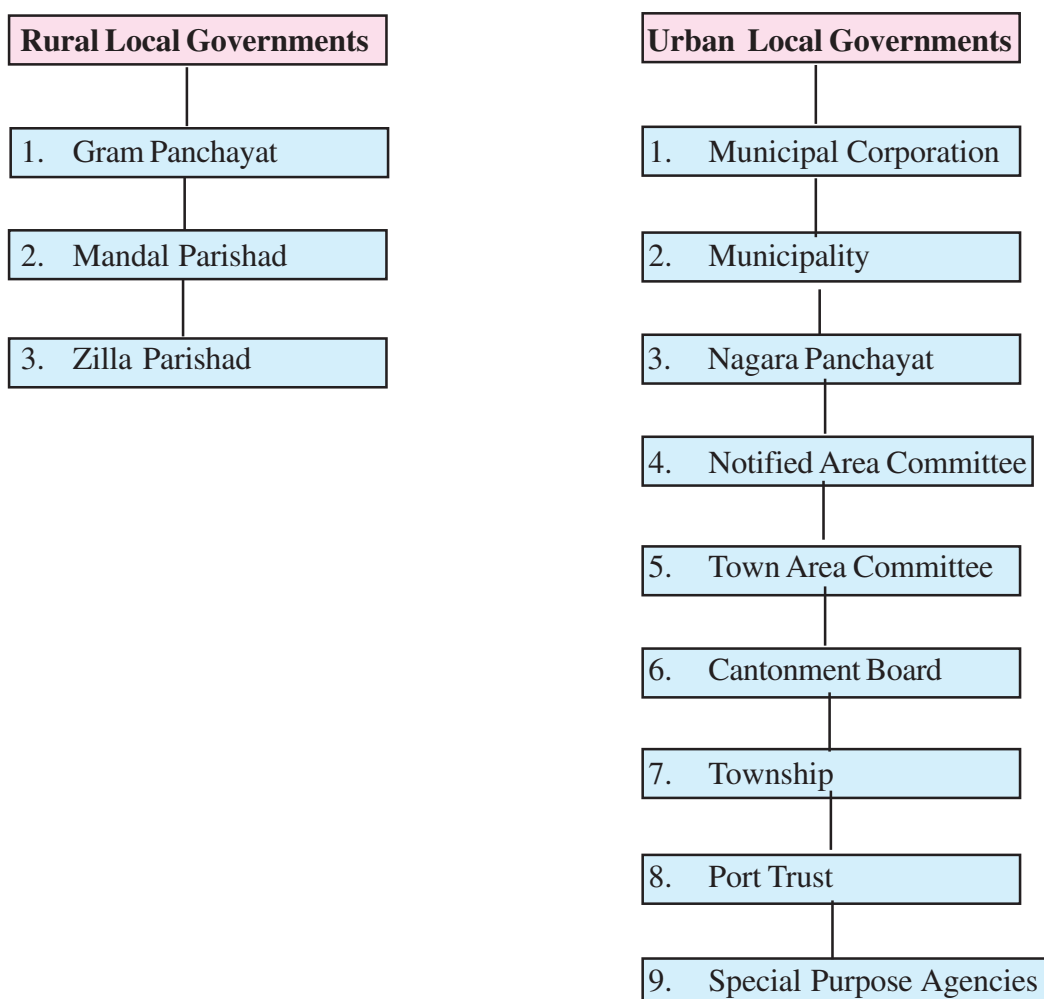
and State governments constituted several committees to enquire into the working of these bodies. These committees offered valuable suggestions for the effective and efficient functioning of the rural as well as urban bodies. The Rural Local governments are constitutionalised through the 73rd Constitutional Amendment Act of 1992 and 74th Constitutional Amendment Act of 1993. These Acts specify the composition and functions of Rural and Urban local governments in India.

Rural Local Governments or Panchayati Raj institutions in India signifies the system of Rural Local Governments. They serve as the backbone of India's political culture. These institutions are of three types, popularly known as Three Tier System.

1. Gram Panchayats
2. Mandal Parishads and
3. Zilla Parishads

Urban local government in India signifies the governance of an Urban areas. They are nine types. Namely 1. Municipal Corporation. 2. Municipality. 3. Nagar Panchayat 4. Notified Area Committee. 5. Town Area Committee. 6. Cantonment Board. 7. Township .8. Port Trust and 9. Special Areas Agency. The system of urban government was Constitutionalised through the 74th Constitutional Amendment Act of 1992. The Act specified the composition, powers and functions of Urban Local Government bodies in India. This chapter enables the students to acquire a good knowledge on the above topic.

10.1 Local Governments in India



10.1.1 Definitions

Local Government is defined in many ways by different political scientists. Some of them are cited below:

According to *Sidgewick* “Local government consists of certain subordinate bodies which have defined powers of making rules and regulations within their prescribed area of administration.” *Prof. Finer* defined that “the Local Government means authority to determine and execute measure within a restricted area inside and smaller than the whole state.” In the words of *Duane Lockard* “Public Organization authorized to decide and administer a large range of public policies within its small territory.”

10.1.2 Features of the Local Government

The term Local government means ‘management of local affairs’ by the local people. It is the responsibility of the local government to satisfy the local needs and aspirations of nearly 70 % of rural people. The Local Government has the following features:

1. It has defined jurisdiction within a definite territory.
2. Local government institutions are governed by elected representatives of the local people who are accountable to people.
3. Local institutions are primarily concerned with the promotion of interests of the local people.
4. Local institutions have their own budget and finances.
5. Local governments are free to manage their affairs in accordance with the rules and regulation

10.1.3 Advantages of Local Governments

Local governments have the following advantages:

1. Local government institutions provide extensive range of service to the people.
2. They lead to efficiency of administration at local as well as state and national level.
3. They lead to economy in administration.
4. They cultivate spirit of self-help and self-dependence.
5. They promote spirit of liberty among people.
6. The Local Governments facilitate the ventilation of people’s grievances and provide effective solution to local problems.
7. They ensure the participation of the people in the formulation and implementation of developmental programmes at grass root level.

10.2 Historical Background

Local governments in India have a long historical background. The Rigveda, the oldest of four *Vedas*, mentioned two institutions namely, Sabha and Samithi which performed several administrative and political functions at community level. They were the effective administrative state structures at local levels in ancient period. They relate to village Panchayat and caste Panchayat which managed the administrative and judicial affairs of a village community. These institutions continued for several years even without the effective support of the ruling classes of the time. Many eminent writers like Megasthenes, Kautilya and Fahien have cited the existence of these bodies in their writings.

In medieval period, village Panchayat flourished during the Chola Dynasty in South India. The Cholas were renowned for their patronage of the local bodies. However, the local governments of the present form are attributed to the efforts of some British officers at higher levels. The Britishers developed these bodies to promote their colonial interests. Lord Mayo's Resolution (1870) and Lord Rippon's Resolution (1882) paved the way for the progress of these institutions in India. Earlier the East India Company established the Municipal Corporation of Madras in 1687 with the consent of Emperor George II. Some Mayor courts were set up in Madras in 1726 for collecting taxes and administering justice. The Regulating Act of 1773 given the way for establishment of local governments at Calcutta (Kolkata) Madras (Chennai) and Bombay (Mumbai). Lord Rippon, the Governor General of India moved the famous resolution for devolving financial and administrative powers to the local governments. His resolution is known as the 'Magna Carta of Local Governments' in India. He was described as the father of local self-governments in India. Subsequently, the successive British rulers in India have initiated many steps for providing more authority to the local bodies and setting up of village Panchayats, Constitution of district boards, entrusting primary obligations to municipalities etc. The Government of India Act, 1919 introduced diarchy at state level. It gave impetus to the local governments. It empowered the Indian ministers to take decisions in regard to the maintenance of local bodies.

The Government of India Act, 1935 assigned the Provincial Governments with the obligation of making the local bodies energetic and efficient. It placed the subject of 'Local Self Government' under Entry 12 of the Provincial Governments and the powers of administration including criminal justice of the Panchayat. Great leaders like father of our nation Mahatma Gandhi supported the cause of local governments. After the outbreak of the Second World War, no substantial progress was made in the matters of Local Governments.

Now we can study the organization, powers and functions of local governments in India into two parts:

- a) Rural Local Government and
- b) Urban Local Government

10.3 Rural Local Governments in India

Rural governments in India after independence were set up on the recommendations of Balwant Rai Mehta Committee (1957). Earlier the new Constitution (1950) made a reference of these bodies in Article 40. This Article enunciated that the State shall take steps to organize enable them to function as the units of self government. The new Constitution included the subject of local self government in the State List and entrusted the responsibility of organizing the rural local governments to the state governments. However rural local bodies continued to function in various states in various forms. In 1952, the Government of India launched the Community Development Programme and the National Extensive Service (1953) for the integrated development of rural local governments. But the programme failed to achieve the desired results. Consequently, the Government of India appointed a Committee under the chairmanship of Balwant Rai Mehta in January 1957. The committee was asked to find out the reasons for the failure of the Community Development Programme (1952) in India. The committee submitted its report in November 1957. It concluded that the above programme failed due to its poor implementation. The committee recommended for the revival and re-organization of democratic de-centralization of Village Panchayat to ensure the cooperation and participation of the people in the implementation of rural development programmes. It made specific recommendations. Of them the following are note worthy.

1. Establishment of three tier structure of Panchayat Raj system - Gram Panchayat, Panchayat Samithis and Zilla Parishad.
2. Provision of adequate financial resources to the rural local governments.
3. Implementation of rural development programmes exclusively by the Gram Panchayat.
4. Genuine transfer of powers and responsibilities to the Panchayat.

The Government of India accepted the recommendations of the Balwant Rai Mehta Committee in January 1958. Rajasthan was the first state to implement the new Panchayat Raj System as recommended by Balwant Rai Mehta Committee. The Balwant Rai Mehta Committee report is considered a historic document. It described the master blue-print and a sort of 'Bible of Panchayat Raj'. Jawaharlal Nehru, the then Prime Minister of India inaugurated the new scheme on October 2, 1959 in Nagaur district of Rajasthan. Andhra Pradesh was the second state to implement the new scheme.

In course of time rural local governments did not achieve success due to several loopholes like apathy of the bureaucrats, political manipulations, interference by the provincial leaders, and delay in the release of financial resources, lack of popular enthusiasm etc. As a result many committees and study teams were appointed by the Union and State Governments for making enquiry into the working of these governments. Of them, the following are the important committees V.R. Rao Committee (1960), S.D. Mishra Committee (1961), Santhanam Committee (1965), G. Ramachandran Committee (1966), Dantwala Committee (1978), Hanumantha Rao Committee (1984), G.V.K. Rao Committee (1985) and L.M. Singhvi Committee (1986).

The last Committee i.e., L.M. Singhvi Committee recommended for the Constitutional recognition of Panchayats for strengthening their identity and integrity. It also suggested for the reorganization of villages and strengthening of Gram Sabhas.

10.4 Constitution (73rd Amendment) Act 1992

The R.S. Sarkaria Commission on Centre State relations prescribed uniform legislation for the effective working of the Panchayati Raj Institutions in India. Accordingly, the union government headed by the Prime Minister Rajiv Gandhi set up a parliamentary sub committee under the chairmanship of P.K. Thungan in 1988. The sub-committee was asked to suggest ideal administrative and political machinery for formulating the district plans. It prescribed Constitutional status to the Panchayat Raj Institutions. It viewed Zilla Parishad as the sole agency of planning and development in the district. But its proposals were not implemented due to the change in Union Government in 1989. Two years later, the union government headed by the Prime Minister P.V. Narasimha Rao strongly felt the need for immediate grant of Constitutional status to the Panchayat Raj Institutions. It introduced a Bill to that effect in the Parliament in September 1991. Later, the bill was referred to a joint select committee which studied the former and submitted its report in July 1992. The bill was accepted by the Parliament and the same was referred to the state legislatures for their approval. As majority state

legislative assemblies accepted the Bill, it became an Act in the name of the Constitution (Seventy Third Amendment) Act, 1992. The Act came into force from April 24, 1993.

The Act reinserted Part IX which was deleted by the Constitution (Seventh Amendment) Act, 1956 and added a new Schedule, namely 11th Schedule. The Act deals with Articles 243 to 243 (O) of the Indian Constitution.

Salient features

The 73rd Constitutional Amendment Act of 1992 has the following salient features:

1. The Act defined clearly certain terms like District, Gram Sabha, Panchayat, Village etc.,
2. It constituted a Gram Sabha for every village which acts as the legislative body at the village level.
3. It made obligatory for every state to implement three tier system of Panchayat Raj i.e., Panchayat at the Village, intermediate and district levels.
4. It insisted every state legislature to make laws for the composition of Panchayat on uniform basis. It further specified direct elections to Panchayat based on territorial constituencies. It provides right to vote to the chairpersons of Panchayat and other members whether directly elected or not.
5. It provided reservation in every Panchayat for Schedule Castes and Schedule Tribes in proportion to their population to the total population in the Panchayat area and women not less than 1/3rd of the total seats (Andhra Pradesh Government enhanced the Women Reservation up to 50%).
6. It specified the duration of Panchayat as five years and insisted on holding elections before the expiration of the term or in case of dissolution within six months
7. It prescribed the eligibility and disqualifications of the candidates in local government elections.
8. It provided for the creation of a Finance Commission for local bodies.
9. It provided for auditing the accounts of the Panchayats by the state account and audit officers.
10. It also provided for State Election Commission for conducting elections to the local bodies.

11. It stated that union territories shall follow the directives of the President of India in constituting or abolishing Panchayats.
12. It mentioned some exemptions to the states having administrative councils in scheduled areas.
13. It provided for special Tribunals for solving election disputes.

Eleventh Schedule

It contains the following 29 fundamental subjects enumerated with the purview of Panchayats:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food-processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.

22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

10.5 Types of Rural Local Governments (Panchayati Raj Institutions)

The Rural Local Governments or Panchayati Raj Institutions are known by several names such as democratic decentralized institutions, local self government institutions, three tier democratic bodies, grass root level democratic agencies etc. The word Panchayati Raj denotes the name of local self governments in rural areas in India.

At present Panchayati Raj Institutions in India are constituted on the basis of the Constitution (Seventy Third Amendment) Act, 1992. Normally all the states in India (excepting those whose population is less than 20 lakhs) provided three tier system in the rural areas. The nomenclature however, could differ from state to state. These relate to

1. Village Panchayats.
2. Panchayat Samithi (Mandal Parishads) and
3. Zilla Parishads

The Legislative Assemblies of the concerned states formulate legislation for maintaining and regulating these representative bodies. The state executive authorities see that these institutions carry on their activities on proper lines. They supervise the affairs, programmes and activities of these bodies with a view to decentralize political power so as to reach the benefits to the ordinary people.

Let us know in detail about the composition, functions and sources of income of these rural local governments.

10.5.1 Gram Panchayat

Gram Panchayat or Village Panchayat is the lowest tier in the Panchayat Raj System. Normally there will be a village Panchayat for a minimum population of 250. The Commissioner of Panchayat Raj Department makes notification for setting up of village Panchayat on the suggestions of the District Collector. Gram Panchayats are classified into two types viz., i. Notified. ii. Non-notified categories based on annual income.

Composition of Gram Panchayat

Every Gram Panchayat comprises four organs, namely ;

- i. Panchayat
- ii. Sarpanch
- iii. Panchayat Secretary and
- iv. Gram Sabha. These may be explained as below.

i. Panchayat

It is the lowest step of the three tier system. The Panchayat serves as the deliberative wing of village. It comprises a Sarpanch, a Vice-Sarpanch and some ward members. All of them are elected directly by the registered voters of the village for a period of five years. The membership of Panchayat varies between 5 and 21. The Sarpanch presides over the meetings of the Panchayat. The Secretary maintains the records of the Panchayat. While the Sarpanch is directly elected by the registered voters of the village, the Secretary is appointed by the state government. Some officers of the state government attend the meetings of the Panchayat in the capacity of permanent invitees. Some seats in Panchayat including the Sarpanch are reserved for Scheduled \Castes, Scheduled Tribes, weaker sections and women. Panchayats in Gujarat, Tamil Nadu, and Bihar are called as Nagar Panchayat, Town Panchayat and Karkari Samithi respectively.

ii. Sarpanch

The Sarpanch is the political executive head of the Panchayat. He presides over the meetings of Village Panchayat and Gram Sabha. He will have administrative control over the Panchayat Secretary. He supervises and renders advice in regard to the implementation of the various Panchayat resolutions. The secretary prepares the agenda of Panchayat meetings on the advice of the Sarpanch. He will have administrative control over the properties, programmes and personnel of village Panchayat.

iii. Panchayat Secretary

Every Panchayat shall have a full time Secretary who is an officer of the government. He shall draw his salary and allowances from the Panchayat fund as per government rules. He will be in charge of the office of the Panchayat. He will work under the direct supervision of the Panchayat Sarpanch.

Powers and Functions of the Panchayat Secretary

Panchayat Secretary performs the following functions. They are :

- a) Preparation of budget and annual administration report.
- b) Preparation of monthly/quarterly statements of accounts
- c) Maintenance of cash book
- d) Keeping all records of the Panchayat in safe custody
- e) Allotment of duties to the staff posted in Gram Panchayat
- f) Submission of application for grant-in-aid and maintain grant-in-aid register.
- g) Visit the work sites and assess the work in progress
- h) Attend to complaints relating to developmental works etc.

- iv. Gram Sabha:** There will be a Gram Sabha in every Panchayat. It comprises all the adult citizens who have been entitled to vote. It meets at least twice a year usually after Rabi and Kharif crops are harvested. It discusses and approves the administrative and audit reports. It identifies the beneficiaries of development schemes. It takes steps for mobilizing voluntary labour for community welfare programmes. In many states Gram sabhas are known with the same name. However, they are called Panchayats in Bihar and Palisabhas in Odisha. The Union Government declared the year 2009-2010 as the year of Gram Sabha on the eve of golden jubilee celebrations of village Panchayat. It directed the state governments to make arrangements for convening Gram Sabha on April 14 of every year. (Second one in the month of October)

Functions of Gram Panchayat

The Village Panchayat performs two important functions, namely -

- i. Essential Functions
- ii. Discretionary Functions

While essential functions shall be performed without delay and without subject to financial resources, discretionary functions may or may not be undertaken by the village Panchayat.

Essential Functions

Essential functions have to be carried out by the Gram Panchayat without fail. These include the following items.

- i. Construction, repair and maintenance of roads and other public places.
- ii. Construction, repair and maintenance of drainage canals.
- iii. Construction and maintenance of burial grounds.
- iv. Erection and maintenance of electric polls.
- v. Maintenance of birth and death registers.
- vi. Conducting vaccinations for controlling rabbis and other contagious diseases.
- vii. Provision of drinking water facilities.
- viii. Construction, repair and maintenance of footpaths, causeways, culverts, public parks, play grounds.
- ix. Manufacture and sale of manures.
- x. Maintenance of cattle farms and so on.

Discretionary Functions

Gram Panchayat performs these functions subject to the availability of financial resources. These include the following.

- i. Construction and maintenance of rest houses.
- ii. Construction and maintenance of primary schools, dispensaries, libraries, reading rooms, market places etc.
- iii. Establishment and maintenance of maternal and child welfare centers.
- iv. Mobilizing voluntary labour for community development works.
- v. Publicizing the modern methods of cultivation
- vi. Implementation of land reforms and so on.

Financial Resources

Gram Panchayat receives income from three important sources, namely,

- i. Grant-in-aid released by the union and state governments.
- ii. Funds released for centrally sponsored schemes and

- iii. Grants from union government on the recommendations of Finance Commission.

Every Gram Panchayat shall constitute the following Committees by election. These are:

1. **Production Committee:** This committee performs functions relating to agricultural production, animal husbandry, rural industries and poverty alleviation programmes.
2. **Social Justice Committee:** This committee shall perform functions relating to the promotion of educational, social, economic, cultural issues of SCs, STs and BCs and welfare of women and Children.
3. **Amenities Committee:** This committee performs functions in respect of public health, public work etc.

10.5.2 Mandal Parishad

Mandal Parishad is the intermediate tier in the Panchayat Raj System. It is set up according to the statutes of state government. In different states, the Panchayat Samiti has been given different names. Tamil Nadu calls them Panchayat Union Council, in Karnataka as the Taluka Development Board, in Gujarat as the Taluka Panchayat. However, the most popular name happens to be the Panchayat Samithi.

Composition

Every Mandal Parishad comprises four organs namely,

1. Mandal Parishad
2. Mandal Parishad President.
3. Mandal Parishad Development Officer and
4. Mandal Mahasabha

Mandal Parishad

Mandal Parishad is the legislative and deliberative wing of the Mandal. It comprises some elected MPTC Members (Mandal Parishad Territorial Constituency), co-opted and ex-officio members. Besides there are some persons like District Collector, Village Sarpanches, Z.P.T.C. members (Zilla Parishad Territorial Constituency), Z.P. Chairman and Agricultural Marketing Committee Chairman who attend its meetings as permanent invitees. Every Mandal Parishad will have a President and a Vice-President. They are elected by the members of the Mandal Parishad. Some of the offices of Mandal Parishad members and presidents are reserved for Scheduled Castes, Scheduled Tribes, weaker sections and women. Mandal Parishad will have tenure of five years.

The Chief Executive head of the Mandal Parishad is Mandal Parishad Development Officer (MPDO). He is appointed by the state government and works under the control of the state government only.

Mandal Parishad President

Mandal Parishad President acts as the political head of the Mandal Parishad. He presides over the meetings of the Mandal Parishad. He determines the date and agenda of the said meeting in consultation with the Mandal Parishad Development Officer. He will have control over the Mandal Parishad Development Officer in the implementation of various resolutions of the Mandal Parishad. He takes suggestions from non-political/eminant/experienced persons for the effective functioning of the Mandal Parishad.

Mandal Parishad Development Officer

Mandal Parishad Development Officer (MPDO) is the administrative head of Mandal Parishad. He plays a crucial role in the administrative affairs of the Mandal Parishad. He prepares the agenda of the parishad meetings and participates in the meeting and renders advice to the members on several matters of the Mandal Parishad. He prepares the annual budget of the Mandal Parishad. He takes steps for the effective working of the Mandal Parishad.

Mandal Maha Sabha

There will be a Mandal Maha Sabha in every Mandal Parishad. It serves as an advisory body to the Mandal Parishad. It comprises of the Sarpanches of the village Panchayats in Mandal Parishad jurisdiction and members of the Mandal Parishad. The Mandal Parishad President presides over its meetings. The Mandal Parishad Development Officer (MPDO) convenes its meetings on the advice of the Mandal Parishad President. Mandal Maha Sabha serves as a link between Mandal Parishad and Gram Panchayats. It discusses the matters concerning the annual budget, audit report and administrative report of the previous year.

Functions of Mandal Parishad

Mandal Parishad performs the following functions.

1. It takes steps for implementing various community development programmes.
2. It makes arrangements for providing amenities like dispensaries, drinking water, vaccination and non-choking gas stoves.
3. It implements several programmes like community education, communications, co-operation, cottage industries, women welfare, social welfare etc.

4. It takes steps for raising production in agricultural sector through the provision of superior quality seeds, manures, pesticides, latest technology etc.
5. It implements programmes for improving the health and strength of cattle by furnishing improved fodder, artificial insemination centers, cattle grazing etc.

Mandal Parishad receives revenue from various sources. These include funds from union and state governments, community development grants, levies from Village Panchayats, public donations, grant-in-aid from all India organizations etc.

10.5.3 Zilla Parishad

Zilla Parishad is the upper tier of the Panchayat Raj System. There will be a Zilla Parishad in every district. Zilla Parishad is the superior local body at the district level and has the corporate status. It is known as Zilla Panchayat in Gujarat, Zilla Vikasparishat in Tamil Nadu and Mahakum Council in Assom, District Development Council in Karnataka.

Composition

Zilla Parishad comprises six organs, namely;

- i. Zilla Parishad
- ii. Zilla Parishad Chairman
- iii. Zilla Mahasabha
- iv. Chief Executive Officer
- v. Standing Committees and
- vi. District Collector

Zilla Parishad

Zilla Parishad is the legislative wing at the district level. It comprises various types of members, i.e., elected, co-opted and ex-officio members. District level authorities like the District Collector, Chairmen of District Co-operative Central Bank, District Co-operative Marketing Society and Zilla Grandhalaya Samstha participate in the meetings as permanent invitees. Besides, the Members of State Legislative Assembly and Lok Sabha participate in the meetings as ex-officio members.

Functions of Zilla Parishad

Zilla Parishad performs the following functions

1. It approves the annual budget of the Mandal Parishads in the district.
2. It allocates the grants sanctioned by the union and state governments among the Mandal Parishads.

3. It takes steps for implementing the directives of the union and state governments
4. It acts as the supervising and coordinating agency of various programmes of Mandal Parishad in the district.
5. It conducts statistical surveys as per the guidelines of various union and state governments.
6. It maintains secondary schools in the district.
7. It renders advice to the union and state governments on financial matters of the Village Panchayats and Mandal Parishads.

Zilla Parishad implements its activities basing on the grants of union and state government, contributions from Mandal Parishads and public donations.

Zilla Parishad Chairman

The Chairman, being the political head, presides over the meeting of Zilla Parishad. He is elected by the elected members of Zilla Parishad, i.e., ZPTCs, MPs, MLAs and MLCs of the district concerned. The Chairman presides over the ordinary and special meetings of the Zilla Parishad. He conducts the meetings with dignity. He permits the members for moving resolutions, allocates time for discussion and conducts voting on the resolutions. He also presides over the meetings of Zilla Mahasabha and some standing committees. He acts as a link between Zilla Parishad and the State Government. He will have administrative control over the Z.P. Chief Executive Officer in the implementation of various resolutions.

Zilla Mahasabha

There will be a Zilla Mahasabha in every Zilla Parishad. It comprises a chairman and some other members of Zilla Parishad. It serves as an advisory body to the Zilla Parishad. The Zilla Parishad Chairman presides over its meetings. The Chief Executive Officer attends its meetings in ex-officio capacity. It performs three important functions, namely

1. Examining the annual budget and audit reports of Zilla Parishad
2. Administrative report of the previous year and
3. Other matters of Zilla Parishad.

Chief Executive Officer (C.E.O)

There will be a Chief Executive Officer in every Zilla Parishad. He is appointed by the state government and responsible to the State Government and Zilla Parishad in exercise of his powers and functions. He serves as the administrative head of Zilla Parishad. He plays a

key role in preparing the annual budget and agenda for the general meetings of the Zilla Parishad in consultation with Zilla Parishad Chairman. He will have administrative control over the personnel, assets and records of the Zilla Parishad. He takes necessary steps for implementing the decisions of Zilla Parishad, Zilla Mahasabha and Standing Committees.

There are seven Standing Committees in Zilla Parishad. They render advice to the Zilla Parishad on several matters like planning, finance, agriculture, rural development, women, social welfare, education, health etc. The Chief Executive Officer prepares the agenda of the meeting and decides the venue of the standing committees on the advice of Zilla Parishad Chairman. The District Collector participates in Zilla Parishad and standing committee meetings as a permanent invitee.

Concept of Smart Village

The concept of Smart Village is the recent development in Panchayat Raj System in A.P inaugurated by the Chief Minister of Andhra Pradesh Nara Chandrababau Naidu in 2015. Andhra Pradesh is committed to achieve holistic, inclusive and sustainable development of the state. The state has a vision “Swarnandhra Vision 2029” to be a developed State and to be among the best three states in the country. To realize this vision, the government has adopted the mission based approach to create the social and economic infrastructure; has initiated campaigns to create awareness seeking participation of the stakeholders.

A ‘Smart Village/Ward’ displays sustainable and inclusive development with all sections of its community enjoying a high standard of living. This is achieved when the village/ward excels in the following indicators:

1. Every household has vibrant livelihood opportunities and/or micro-enterprise
2. Home for all – with access to toilet, safe-drinking water, and power
3. Open defecation free
4. 100% institutional deliveries
5. No maternal deaths
6. No infant deaths within one year of birth
7. Malnutrition free (children below 5 years of age)
8. Zero school drop outs of boys and girls up to 12th class
9. No girl-child marriages (girls below 18 years of age)
10. Functional toilet, portable water, electricity available in Anganwadi Centres, School, health centre, GP Building/Ward.

11. Gram Sabha/Ward Sabha held four times a year with 2/3rd attendance
12. Every village household has a functional bank account/Prime Minister Jan Dhan Bank Account
13. Every farm has soil health card and diversification with livestock, tress, etc.
14. Gram Panchayat /Ward has its own dynamic development plan prepared by community participation
15. The Village has green trees all over its geographic boundaries
16. The Village has functional water conservation and harvesting structure
17. The Village has functional grievance redressal system
18. The Village has functional Village Information Centre, Village Computer Lab, and Mee-Seva Centre
19. The Village has telecom/internet connectivity
20. The Village has functional solid/liquid waste management system

10.6 Urban Local Governments in India

Urban Local Governments occupy a prominent place in the administrative system of urban areas in India. India is a vast country having rich cultural heritage. More than 26 % of population lives in rural India It has seen their rise and fall of many urban centers of political, cultural and commercial significance in ancient and medieval period.

Megasthanes, a prominent Chinese traveler who visited India during Mauryan Period in 4th century B.C. mentioned about the Urban Local Governments in India in his book 'Indica'. He described that an urban area, known as a town was administered by six committees consisting of five officials. Each committee owed responsibility for looking after separate activities like industrial arts, entertainment of foreigners, deaths and births, trade and commerce, supervision of manufactured goods and collection of commercial taxes. Abul Fazl, another foreign traveler who visited India during the Moghul Period referred to the municipal functions of town officer known as Kotwal. Kotwal was the administrative officer having complete grip over the affairs of the people living in municipal areas. Kotwal also handled many matters like magisterial and fiscal affairs. Abul Fazl's book, Ain-i-Akbar, contains some references to the duties of Kotwal. These duties include watchfulness, night patrolling etc. Kotwal maintained a register of houses and roads. He engaged the services of citizens in a pledge of reciprocal assistance.

The main milestones in the evolution of urban local governments in India during the British Period are summed as follows. The first municipal corporation in India was setup at Madras in 1687 with the aim of assigning financial responsibility of city administration to the newly created corporation. Later, the Royal Charter of 1720 provided for setting up of a Mayor's Court in the presidency towns of Madras, Bombay (presently Mumbai) and Calcutta (presently Kolkata). The Act of 1850 led to the establishment of local committees in all cities within the jurisdiction of person.

The Act of 1850 enabled the establishment of local committees in all cities of British India to take care of public health. Later in 1870 Lord Mayo's resolution assured steps for strengthening urban local bodies with the inclusion of more Indians. Lord Rippon's resolution of 1882 led to the expansion of these bodies, more devolution of financial resources, reduction of officials to one-third and election process. The Royal Commission on Decentralization, 1907 recommended for the adoption of far reaching measures like avoiding official control, enlarging voting rights, provision of more financial resources etc., to the local bodies.

The Government of India Act, 1919 introduced Diarchy in the provinces and included the items 'Urban Local Governments under Transferred List and was put under the charge of a popular minister. It has given the scope for expanding franchise, enlarging taxation powers and reducing nominated official members. However, the Government of India Act 1935 did not assign proper significance to these bodies. Later, no substantial progress was made in the case of these bodies due to the outbreak of Second World War.

After independence, the new Constitution of 1950 made specific provisions for the establishment of Panchayat Raj institutions (Article 40) under the Directive Principles of State Policy. There was a little mention about these institutions under Entry 5 of State List of the schedule. This entry mentioned about the composition and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities. The Constitution empowered the state governments to formulate and implement such laws concerning urban affairs. The matters concerning urban planning were included in Entry 20 which mentioned about the economic and social planning. According to this Entry, matters of powers and functions of urban local bodies are entrusted to the state governments and urban planning under the supervision of both the union and state governments.

10.7 Constitution (74th Amendment) Act 1992

The Constitution (Seventy Fourth Amendment) Act, 1992 was approved by the Parliament in December, 1992. It was regarded as a progressive step in strengthening the urban local bodies in India. It provided a common framework for the effective functioning of these bodies. The Act came into force on June 1, 1993.

Main Provisions

1. The Act gave Constitutional status to the urban local bodies in India for the first time. It introduced a new part in the Constitution, namely part IX-A.
2. It incorporated the 12th schedule in the Constitution.
3. It listed out 18 subjects under the jurisdiction of urban local bodies.
4. It gave definitions of various terms concerning the urban local bodies. It constituted metropolitan area for urban areas having a population of ten lakhs or more.
5. It provided for the Constitution of various urban local bodies such as Municipal Corporation, Municipal Council, Nagar Panchayat etc. The Act authorized the state governments to designate and demarcate the urban local bodies as and when necessary.
6. It specified the composition of the Municipalities. It declared that the elected members of the Legislative Assembly and the Lok Sabha of the concerned area will act as ex-officio members of the Municipalities. It also authorized the members of Legislative Council and the Rajya Sabha as members of Municipalities subject to their voting enumeration in the respective areas.
7. It authorized the state legislature to make legislation for the composition of ward committees in Municipalities
8. It provided for reservation of some seats in urban local bodies for Scheduled Castes and Scheduled Tribes in proportion to their population in municipal areas. It also enabled one - third reservation for women in municipal areas and to the offices of Chairman / Chairperson of Municipalities on rotation basis.
9. It prescribed the uniform term for 5 years for Municipalities. It also clarified that elections shall be held within the six months after its dissolution.
10. It specified that the persons who are disqualified to become members of Legislative Assembly shall also become disqualified as members of Municipality. It also prescribes 21 years of age for becoming a member of Municipality.

11. It empowered the state legislature to make laws enabling the Municipalities to impose and collect taxes, allocate funds and receive Grant-in-aid from the state government
12. It enabled the state government to appoint the State Finance Commission for every five years for making recommendations (to the Governor) on the principles for distribution of Grants-in-aid among the urban local bodies.
13. It allowed the state legislature to make legislation for the audit of the accounts of urban local bodies
14. It provided for the appointment of State Election commission to conduct, supervise, direct and control the elections to the urban local bodies.
15. It also enabled the state legislature to create a district planning committee in each district for consolidating the plan activities
17. It provides for the establishment of metropolitan planning committees in every state.

Twelfth Schedule

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation, conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker section of society, including the handicapped and mentally retarded.
10. Slum improvement and up gradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations; cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

10.8 Types of Urban Local Bodies

As per the 74th Constitution Amendment Act, eight types of Urban Local Bodies are existing in India. They are mentioned as follows:

1. Municipal Corporation
2. Municipality
3. Nagar Panchayat
4. Notified Area Committee
5. Town Area Committee
6. Cantonment Board
7. Township
8. Port Trust
9. Special Purpose Agency.

These may be explained as follows:

10.8.1 Municipal Corporation

Municipal Corporation is an important category of urban local government. It is the highest local government institution working in each large urban area. It is constituted by a special Act of the State Government. The first Municipal Corporation was setup in the former presidency town of Madras in 1687. It was followed by similar Corporations in Bombay and Calcutta. The state government can declare the transformation of a Municipality into a Municipal Corporation when the population is at least three lakhs and annual income is four crore rupees.

Composition

The number of members of each Municipal Corporation is determined on the basis of the population of the city concerned by the law passed by the state legislature. Every Municipal Corporation consists of four organs, namely (i) Corporation Council, (ii) Mayor, (iii) Commissioner and (iv) Standing Committees.

Corporation Council

Corporation Council is the deliberative and legislative wing of the Municipal Corporation. It consists of members elected by the voters in wards of the Municipal Corporation. They are called Corporators. Some seats in the Council are reserved for Scheduled Castes, Scheduled Tribes, Backward Classes and women on rotation basis. The Municipal Commissioner, the MLAs and the members of the Lok Sabha of the concerned area attend its meetings as ex-officio members. The Mayor presides over the meetings of the Council. The Council is headed by a Mayor. The agenda of the Council is prepared by the Municipal Commissioner after consulting the Mayor.

The Mayor

The Mayor is the first citizen of the Municipal Corporation. He is the political and ceremonial head of the Municipal Corporation. He is elected directly by the voters of the Corporation area. He presides over the ordinary and special meetings of the Corporation Council. He holds the office for a period of five years. He receives a monthly honorarium of Rs.14,000/- per month.

Standing Committees

Standing Committees are the advisory bodies of Municipal Corporation. They are created to facilitate the working of the council, which is too large in size. They maintain liason with the routine matters of the Municipal Corporation. They offer valuable suggestions for the effective functioning of the Municipal Corporation. They examine the annual budget of the Municipal Corporation. They can seek any information or record from any officer of the Municipal Corporation. They deal with public works, education, health, taxation, finance, and so on. They take decisions in their field.

Commissioner

The Commissioner is the administrative head of the Municipal Corporation. He is appointed by the state government and is generally a member of the IAS cadre. He represents the state government in the affairs of the Municipal Corporation. He exercises administrative control over the personnel properties and programmes of the Municipal Corporation. He is responsible for the implementation of the decisions taken by the council and its standing committees.

Powers and Functions of the Municipal Commissioner

The Municipal Commissioner exercises the following powers and functions.

1. The Municipal Commissioner informs to the members the date and agenda of the meetings of the Corporation Council in consultation with the Mayor.
2. He prepares the annual budget of the Municipal Corporation and presents it to the Corporation Council for consideration and approval.
3. He takes necessary steps for preparing the voters list in the Municipal Corporation jurisdiction.
4. He attends the meetings of the Corporation Council and renders advice to the members and gives clarification on various matters.
5. He maintains all records of the Municipal Corporation.

6. He takes steps for implementing the resolutions of the Municipal Corporation / Standing Committees.
7. He sends a copy of the minutes of the Municipal Corporation / Standing Committees meetings to the state government for ratification.
8. He maintains the financial accounts of the Municipal Corporation.
9. He acts as the chief coordinator, motivator and facilitator to the personnel of the Municipal Corporation.
10. He takes steps for implementing the directives of the union and state governments in the municipal corporation area.

Functions of the Municipal Corporation

Municipal Corporation performs two types of functions, namely, essential and discretionary.

Essential Functions

These functions are to be performed by the Municipal Corporation irrespective of financial constraints. They are as follows.

1. Construction, repair and maintenance of roads and footpaths.
2. Erection and maintenance of street lights.
3. Allotment of numbers to the houses.
4. Eradication of contagious diseases.
5. Registration and maintenance of birth and deaths registers.
6. Imposition and collection of taxes, fees etc.
7. Construction and maintenance of places and slaughter houses.
8. Control of offensive and dangerous practices etc.

Discretionary Functions

The Municipal Corporation performs these functions subject to the availability of financial resources.

1. Establishment and maintenance of maternity, child and women welfare centers.
2. Establishment and maintenance of drug testing laboratories.
3. Construction and maintenance of auditoriums, gymnasiums, parks, gardens, rest Houses etc.
4. Beautification of the corporation areas etc.

Source of Income

Municipal Corporation receives income through four important sources. They include (i) Taxes, (ii) Grants from the union and the state governments, (iii) Fees and rents and (iv) Contributions from the Public.

10.8.2 Municipalities

Municipalities are a type of urban local bodies functioning below the level of Municipal Corporation and above that of the Nagar Panchayat / Notified Area. Normally, Municipalities are constituted for a population of 20,001 and above or when annual income is above Rs. 60 lakhs. They are also constituted when annual income is above 20 lakhs acquiring from Trade Licenses, Profession taxes and non-agricultural sectors. Sometimes Panchayats are upgraded as Municipalities on the basis of population density and employment opportunities.

Municipalities are classified into five grades basing on their annual income. They are:

1. Selection Grade Municipalities - Annual income over and above Rs. 4 Crores.
2. Special Grade Municipalities - Annual income varying between Rs. 3 and 4 crores.
3. First Grade Municipalities - Annual income varying between Rs. 2 and 3 crores.
4. Second Grade Municipalities - Annual income varying between Rs. 1 and 2 crores.
5. Third Grade Municipalities - Annual income below Rs. One crore.

Composition

There are four organs in every Municipality, namely, (i) Municipal Council, (ii) Municipal Chairman, (iii) Municipal Commissioner and (iv) Standing Committees.

The structure, powers and functions of these may be explained as under:

Municipal Council

Municipal Council is the deliberative body of the Municipality. It consists of some (i) elected, (ii) co-opted and (iii) ex-officio members. Registered voters in the municipal area elect the first category of members. They are called councillors. The elected members will in turn elect the second category of members. They are called co-opted members. The District Collector and the Municipal Commissioner; the members of the Lok Sabha and State Legislative Assembly of the area concerned are called as the ex-officio members. Normally the Council meets once in a month. The Municipal Commissioner prepares the agenda of the Municipal Council after consulting the Municipal Chairman. Some seats in the Municipal Council are reserved for Scheduled Castes, Scheduled Tribes, Backward Classes and women. Municipal Council considers the matters relating to the Municipality.

Municipal Commissioner

Municipal Commissioner is the administrative head of the Municipality. He is responsible for discharging his functions in the Municipal Council and the State Government.

1. He prepares the agenda of the Municipal Council after consulting the Municipal Chairman.
2. He attends the meetings of the Municipal Council in the capacity of ex-officio member.
3. He implements the resolutions of the Municipal Council after ratification from the state government.
4. He sends a copy of the minutes of the Municipal Council to the District Collector and the Regional Director of Municipal Administration within three days after the meetings.
5. He prepares the annual budget of the Municipality
6. He takes steps to collect taxes and maintain the records of the Municipality.
7. He exercises control over the personnel, properties and programmes of the Municipality.

Standing Committees

Every Municipality consists of some standing committees. These committees act as advisory bodies to the Municipality on matters of finance, works, health, education, women welfare, and welfare of the backward classes etc. Municipal Chairman presides over the meeting of these committees. The standing committees establish a liaison with the routine administrative matters of the Municipality.

Functions of Municipality

Every Municipality, like that of the Municipal Corporation, performs two types of functions, namely (i) essential and (ii) discretionary.

Essential Functions

Essential functions of the Municipality include the following:

1. Maintenance of birth and death registers.
2. Establishment and maintenance of elementary, upper primary and secondary schools.
3. Provision of purified drinking water and street lights.
4. Maintenance of public health and sanitation.
5. Construction and maintenance of roads and buildings.
6. Safeguarding and preserving municipal properties etc.

Discretionary Functions

A Municipality performs the following discretionary functions.

1. Reclamation of unhygienic places.
2. Maintenance of parks, museums, gardens, rest houses, regarding rooms etc.
3. Maintenance of child, women welfare and maternity centers.

Sources of Income

Every Municipality has the following five sources of income.

1. Taxes collected from people
2. Fees and duties
3. Income in the form of rent from markets and buildings.
4. Public borrowings and grants
5. Public contributions.

Smart City

A 'Smart City' is an urban region that is highly advanced in terms of overall infrastructure, sustainable real estate, communications and market viability. It is a city where information technology is the principal infrastructure and the basis for providing essential services to residents. There are many technological platforms involved, including but not limited to automated sensor networks and data centres. Though this may sound futuristic, it is now likely to become a reality as the 'smart cities' movement unfolds in India.

In a smart city, economic development and activity is sustainable and rationally incremental by virtue of being based on success-oriented market drivers such as supply and demand. They benefit everybody, including citizens, businesses, the government and the environment.

Smart Cities are those that are able to attract investments. Good infrastructure, simple and transparent online processes that make it easy to establish an enterprise and run it efficiently are important features of an investor friendly city.

Smart Cities are those which have smart (intelligent) physical, social, institutional and economic infrastructure. It is expected that such a Smart City will generate options for a common man to pursue his/her livelihood and interests meaningfully.

Origin of Smart Cities

The concept of smart cities originated at the time when the entire world was facing one of the worst economic crises. In 2008, International Business Management (IBM) began to work on a 'smarter cities' concept as part of its Smarter Planet initiative. By the beginning of 2009, the concept was attracted by the various countries in the world.

Countries like South Korea, UAE and China began to invest heavily into their research and formation. Today, a number of excellent precedents exist that India can emulate, such as, in Vienna, Amsterdam, Cairo, Lyon, International Business District near Seoul, Verona etc.

The smart cities should have the following elements:

1. **Competitiveness:** It refers to a city's ability to create employment opportunities, attract investments and people. The ease of being able to do business and the quality of life it offers determines its competitiveness.
2. **Sustainability:** It includes social sustainability, environmental sustainability and financial sustainability.
3. **Quality of Life:** It also includes safety and security, inclusiveness, entertainment, ease of seeking and obtaining public services, cost efficient healthcare, quality education, and opportunities for participation in governance.

Pillars of Smart City

The main pillars of a smart city are a) **Institutional Infrastructure** (including Governance), b) **Physical Infrastructure** and c) **Social Infrastructure**. The center of attention for each of these pillars is the citizen. In other words, a Smart City works towards ensuring the best for all its people, regardless of social status, age, income levels, gender, etc.

Instruments of Smart City

There are several instruments that facilitate the development of a Smart City. These are: a) Use of clean technologies, b) Use of Information and Communication Technology (ICT), c) Participation of the Private Sector (PPP), d) Citizen participation, and e) Smart Governance.

In India

The cities with ongoing or proposed Smart Cities include Kochi in Kerala, Ahmedabad in Gujarat, Aurangabad in Maharashtra, Manesar in Delhi, Khushkera in Rajasthan, Visakhapatnam in Andhra Pradesh, Ponneri in Tamil Nadu and Tumkur in Karnataka. Many of these cities will include special investment regions or special economic zones with modified regulations and tax structures to make it attractive for foreign investment. This is essential because much of the funding for these projects will have to come from private developers and from abroad.

Challenges

The concept is not without challenges, especially in India. For instance, the success of such a city depends on residents, entrepreneurs and visitors becoming actively involved in

energy saving and implementation of new technologies. There are many ways to make residential, commercial and public spaces sustainable by ways of technology, but a high percentage of the total energy use is still in the hands of end users and their behaviour. Also, there is the time factor, such cities can potentially take anything between 20 and 30 years to build.

10.8.3 Nagar Panchayat

Nagar Panchayats are created for transitional areas (the area which is fast changing from a rural to an urban area) or for a very small urban area. For this purpose, several factors are taken into consideration; the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance of the area and some others.

Composition

The strength of the members of Nagar Panchayat is fixed by the State Legislature from time to time. They are directly elected by the people of the area on the basis of adult franchise. For the purpose of election, the areas of Nagar Panchayat is divided into wards and each ward elects one member. Besides the elected members, the member of the State Legislative Assembly (M.L.A) representing that area is also the ex-officio member of Nagar Panchayat. Every Nagar Panchayat elects one President and one Vice-President amongst its members. They are elected by all the elected members. The President presides over its meetings.

Term

The tenure of Nagar Panchayat has been fixed at 5 years. It begins from the date of its first meeting. It is obligatory to hold its elections before the expiry of its 5 years term. If a Nagar Panchayat is dissolved before the expiry of its term, its re-election has to be held within six months of the dissolution. The New Nagar Panchayat in this case holds office for the remaining tenure of the dissolved Nagar Panchayat.

Reservation of Seats

There is reservation of seats for (i) Scheduled Castes, (ii) Backward Classes, and (iii) Women. The criteria for reservations are the same as for all other local government institutions.

Functions

The Nagar Panchayat performs all the civic functions as is of the Municipal Council in town area. It implements plans for the development of the area.

10.8.4 Notified Area Committee

This is constituted either for a fast developing town or an area not fulfilling the conditions for the creation of Municipality. As it is created through a special notification of the state government, it is known as Notified Areas Committee. It does not possess statutory position. It will have a Chairman and some members who are nominated by the state government. Its functions are more or less same as that of a Municipality.

10.8.5 Town Area Committee

Town area committee is setup by an act of State Legislature. It fulfils the public needs of a small town. It will have a chairman and members nominated by the state government. It performs limited functions like street lighting, drainage etc. Its authorities take steps for improving the conditions of the people living in the town area.

10.8.6 Cantonment Boards

Cantonment Boards are established in India under the Cantonment Act of 1924. At present there are 62 Cantonment Boards in India. These bodies take steps for improving the conditions of civilian population and military personnel in their jurisdiction. There are three types of Cantonment Boards in India. They are created by an Act of the defense ministry. Each Board comprises some members belonging to the elected, nominated and ex-officio categories. There will be a General Officer on Command (GOC) for every Cantonment Board.

The Cantonment Act of 2006 was enacted to consolidate and amend the law relating to the administration of Cantonments with a view to impart greater demonstration, impairment of their financial base formula provisions for developmental activities and for matters connected with them. This act has replaced the Cantonments Act 1924.

10.8.7 Township

Township is established by the public sector undertakings to provide basic civic amenities to its personnel. It has no elected members. There will be a Town Administrator for every Township. He is appointed by the concerned ministry of union government. Its services are meant not for the general public but for the personnel working in the public sector undertakings.

10.8.8 Port Trust

Port Trust is setup in the areas where port personnel are in considerable member. It manages the affairs of ports. It takes proper steps for protecting the interests of personnel in the port areas. The union government constitutes port affairs committee. The committee comprises both nominated and elected members.

10.8.9 Special Purpose Agencies

These agencies are meant for tackling some special issues faced by the people. They perform some peculiar functions for the people residing in municipalities and other notified urban areas. They are established by the special Acts of state legislature. Sometimes they came into vogue through a special order of the state government. Housing Board, Water Supply, Undertakings, Electricity Generation and Distributions Grids, Urban Development Authorities etc are some examples of these Agencies.

10.9 District Collector

The District Collector occupies a pivotal position in district administration. He acts as the head of the district administration. He plays a crucial role at the district level in formulating and implementing the various rules and regulations for the speedy progress of the people. He is assisted by several authorities in this task.

The office of the District Collector was constituted in India at first in 1772 by the East India Company. At that time the company appointed the Collector for improving regulations and collection of land revenue from the farmers in the district. Since then this office has undergone several changes. Gradually, the company and later the British Government have increased the powers and functions of the District Collector.

At present the District Collector enjoys the prestigious rank of I.A.S in India. He is called by various names in various states in India such as Deputy Commissioner, District Magistrate, District Officer etc. Many significant changes have taken place in this office after independence. Even though the role of District Collector seems to be declining in course of time, even today its influence on every walk of human life is felt by various sections in society, government and state. The Simon Commission recognizing the importance of this office remarked that even though the Indian masses differ in their selection of parliamentary presidential unitary and federal governments, they show allegiance to the office of the District Collector.

The Collector was considered as the uncrowned king at the district level before independence. He was entrusted with several powers and functions during that period. These include collection of land revenue, maintenance of law and order, adjudication, upholding the British ruler's interests in India etc. Even though the reforms of Governor General Cornwallis limited the judicial powers, his powers in other spheres remained intact. The office of the Collector was compared to the French Prefect system. The Collector was

described as a little Napoleon. The powers and functions of District Collector began decreasing with the increasing importance to the people's representatives under the Government of India Act of 1919 and 1935. Besides, the appointment of functional specialists at the state level has further led to the decrease in the powers of District Collector in the sphere of education, health and agriculture. The British rulers tried to suppress the Indian National Movement through the District Collector. The District Collectors exercised absolute powers between 1930 and 1947. Lord Wavell, while highlighting the role of District Collectors, remarked that the Indian masses would remember the Britishers for their introduction of the office of the District Collectors.

The role of District Collector got transformed after independence. The peculiar issues like resettlement of Indians who came to India from Pakistan, safeguarding nation's integrity and implementation of national reconstruction programme etc., led to the involvement of dedicated District Collector. District Collector played a prominent role in various activities ranging from the implementation of rural development programmes to the inauguration of Panchayat Raj System in India in 1950s. However the members of State Legislative Assemblies and Union Parliament began to intervene in the affairs of Panchayat Raj. This led to the decline in the importance of District Collector. Article 50 of Indian Constitution which prescribed for the separation of judicial powers from executive powers led to the decrease in the powers of the District Collector. As a result, the magisterial powers of the District Collector were transferred to the district and subordinate judges. The state government relieved the Collector from their traditional agricultural, irrigation, co-operative and labour obligations. This influenced the office of the District Collector to a great extent.

10.9.1. Powers and Functions of District Collector

The District Collector enjoys vast powers and performs several functions as the head of the district administration. These may be explained as follows.

a) The Collector as District Revenue Officer

The Collector is the Chief District Revenue Officer. He, in that capacity, serves as the chief guide to the farmers in the district by fulfilling several obligations. His revenue functions include various activities such as collection of land revenue, sanction of agricultural loans to farmers, rescuing the farmers in times of natural calamities by assessing the loss incurred by them, rendering assistance to the union and state authorities in emergency relief measures etc. Preparing the statistical data regarding the production of food grains and for providing the required financial

assistance, maintenance of the records of public lands etc., are some of his functions. He also supervises the treasury matters in the district. All these functions relate to the development of the district in various spheres. They also relate to the mobilization of human, material and financial resources in the district.

b) The Collector as District Magistrate

The Collector acts as the District Magistrate. He will have supervision over the activities of the district police personnel. He sees that law and order conditions in the district are normal. For this purpose he will be assisted by a large number of police personnel. The District Superintendent of Police and other police officers owe responsibility to the Collector in matters such as supervision over police personnel, prisons etc. The Collector can inspect the police stations in the district. He is empowered to issue prohibitory orders on the occasion of breakdown of law and order. He can issue firing orders when all peaceful efforts fail in the restoration of normalcy. Supervision over sub-ordinate courts, provision of basic amenities to the prisoners, solving labour problems, granting parole to the prisoners, issuing no objection certificates for explosives, petrol bunks, cinema theaters etc., are some of the functions rendered by the District Collector in this context. All these functions will have a cumulative effect on the maintenance and implementation of development activities in the district.

c) The District Collector as Chief Coordinator

The District Collector acts as the chief coordinator of various government departments in the district. He acts as the chief counsel and coordinator of the departments such as agriculture, irrigation, co-operation and labour affairs. The heads of these departments shall oblige and implement the suggestions and guidelines of the collector in the district. Even though these heads formulate their policies independently; they are answerable to the District Collector in discharging their obligations.

d) The District Collector as District Electoral Officer

The Collector acts as the chief district electoral officer. He serves as the main agent of the Election Commission of India for conducting elections to the various representative bodies in the district. He makes arrangements for conducting the elections in fair and impartial manner. These include preparation of electoral list and its modification, hearing public grievances on voters list, registration of

new voters, issue of voter IDs, appointing returning officers, assistant returning officers etc. He looks into the matter that all sections-people, parties, candidates and other organisations follow the directives of the Election Commission. He takes all steps for conducting elections to various representative bodies in free, fair and impartial manner. These include district cooperative bank, diary units, water utilization committees, school management committees etc. After elections to the local bodies, the Collector will fix the date for electing President, Vice Presidents etc., to the rural and urban bodies in the district.

e) The District Collector as the Chief Census Officer

The Collector acts as the chief census officer in the district. He, on behalf of the union and state governments, takes steps for holding census operations in the district for every ten years. He also sees that the statistical data regarding mulch cattle, trees and domesticated animals in the district is compiled properly. He also compiles such other information as required by the higher authorities in regard to the construction of houses for the poor, family welfare, women empowerment, rural infrastructure etc.

f) The District Collector as Permanent Invitee of Local Bodies

The District Collector is a permanent invitee to the meetings of Panchayat Raj and Urban Local Bodies in the district. He acts as a main link between the union, state governments and district local bodies on various matters. He participates in the normal/emergency meetings of Zilla Parishad and Mandal Parishads in the district. He sends confidential reports to the state government on the nature of functioning of these bodies. He conducts the meeting meant for considering the no-confidence motion against the Zilla Parishad Chairman. He recommends the setting up of new rural/urban local bodies in the district. He supervises the personnel, properties of the government and, welfare and development programs of rural/urban local bodies in the district. He conducts enquiry into the allegations leveled against the representatives / officers in the rural / urban local bodies. If necessary, he discharges the functions of these bodies as special officer on the directives of the state government.

g) Other Functions

The District Collector also performs the following functions.

1. Matters concerning the welfare of Ex-servicemen.
2. Provision of irrigation facilities.

3. Supervision over sub treasuries
4. Coordinating the activities of various government departments.
5. Supervising the training programmes for junior officers.
6. Acting as the chief protocol officer.
7. Proper distribution of essential commodities.
8. Implementing the directives of union and state governments etc.

10.9.2 The Role of the District Collector in Local Governments

The District Collector plays a crucial role in the affairs of local governments in the district. He serves as the friend, philosopher and guide to the common men living in the district. He also serves as a link between people and local bodies in the district. Normally common men seek guidance and solace from the Collector in times of natural calamities and other unforeseen conditions.

The Collector makes recommendations to the state government in regard to the working of the local bodies in the district. His valuable remarks are required for constituting new Gram Panchayats and Mandal Parishads in the district. The entire administrative, revenue, police, health, educational and agricultural personnel working in the district depend to a great extent upon the advice and suggestions of the Collector on many occasions. He sees that the farmers in the district receive sufficient agricultural inputs such as fertilizers, water, rural credit, marketing facilities etc. He supervises the activities of village extension officers and sees that the farmers receive various types of assistance for carrying on their agricultural operations smoothly. He also sees that all persons below poverty line will receive ration and pension facilities. He implements the various rural development and rural reconstruction programmes vigorously. The Collector takes the assistance of auxiliary staff for implementing the various programmes of rural and urban local bodies. Hearing grievances of the representatives and people in the local bodies, informing the union and state authorities about the various issues of local bodies, acting as a counsel to the field staff of these bodies etc., are some of his functions in this regard. Various district level officers like Chief Executive Officer and Deputy Chief Executive Officer of Zilla Parishad, District Panchayat Officer, District Rural Development Officer, Road Transport Officers (RTOs) etc., render their services under the supervision and control of the District Collector.

The fact that the Collector heads more than one hundred committees at the district level demonstrates his role in district affairs. He not only presides over such meeting but also takes

steps for implementing the decisions taken thereof. He visits various Mandals and villages in the district for about twenty days in every month and supervises the working of local bodies at the field level. He, like the Chief Minister at the state level, will have tremendous influence and powers in the district. The effective implementation of programmes of union and state governments like National Rural Employment Guarantee Scheme (NREGS), Pradhan Mantri Gram Sadak Yojana (PMGSY), Janani Suraksha Yojana (JSY), Aam Admi Bima Yojana (AABY), Rural Landless Employment Guarantee Programme (RLEGP), Prime Minister's Employment Generation Programme (PMEGP), Valmiki Ambedkar Awas Yojana (VAMBAY), National Rural Health Mission (NRHM), Mid-Day Meal (MDM) scheme etc, depend upon the dynamic leadership of the district collector.

The union and state governments rely on the District Collector in tackling the financial, political and cultural matters of the people living in local areas. They nominate the District Collector as the chairman, coordinator or secretary of the above programmes at the district level. People regard the Collector as a repository of authority functioning independently with dedicated spirit. Even though some states like Gujarat and Maharashtra relieved the Collector from the perspective of development functions, even today it is felt about the prominence of the Collector due to the popular confidence and credibility. The people of North India prefer to address the District Collector as their maa-baap (mother and father).

The office of District Collector has undergone several tremendous changes in recent times. This office was reconstituted as a result of liberalization, privatization and globalization. These changes made the Collectors to be active, alert and responsible in discharge of his assigned duties. Besides many elements like population growth, progress in science and technology, planning, women empowerment, weaker sections welfare, Constitutional obligations etc also led to the tremendous growth in the powers and functions of District Collector.

Summary

Local Governments are considered as the grass roots of representative democracy. They promote political consciousness among the people of different localities in every state. They yield several benefits to the common man. Local bodies are of two types a) Rural Local Bodies and b) Urban Local Bodies. After 73rd and 74th Constitutional Amendments, both rural and urban local bodies were reconstituted and constitutional sanctity was given to them to enable them to serve the people better. Besides, in this chapter elaborative explained about the role and importance of the District Collector in development and progress of the district as a whole and people in particular.

QUESTIONS**I. Long Answer Questions**

1. Explain the functions of Panchayat Raj Institutions in India.
2. Describe the various types of Urban Local Governments in India.
3. Mention briefly the main provisions of the 73rd Constitution Amendment Act.
4. Explain briefly the important provisions of 74th Constitution Amendment Act.
5. Estimate the powers and functions of the District Collector.

II. Short Answer Questions

1. Write briefly about the historical background of Local Governments in India.
2. Explain the advantages of Local Governments.
3. What are the functions of Panchayat Secretary?
6. What do you know about Gram Sabha?
6. Write a brief note on Mandal Parishad.
7. Explain the composition of Zilla Parishad ?
10. Elucidate various Urban Local Bodies in India.
11. What do you know about the Municipalities?
12. Write any three functions of District Collector?
13. Estimate the role of a District Collector.
14. Explain the concept of Smart Village

III. Very Short Answer Questions

01. Rural Local Governments
02. The Constitution (Seventy Third Amendments) Act, 1992
03. Gram Sabha
04. Zilla Parishad
05. M.P.D.O.
06. Mandal Parishad
07. Zilla Mahasabha
08. Zilla Parishad Standing Committees.
09. Zilla Parishad Chief Executive Officer
10. Municipal Council
11. Nagar Panchayat
12. Notified Area Committee
13. Cantonment Boards
14. Town Area Committee
15. Township
16. Port Trust
17. Collector as the District Revenue Officer
18. Collector as Chief Electoral Officer in the district
19. Smart Village
20. Smart City

CHAPTER 11



Elections and Representations

11.0. Introduction

11.1 Elections and Democracy

11.2 Electoral Functions

11.3 Election System in India

11.4 Features of Indian Electoral System

11.5 Methods of Election

11.6 Election Process

11.7 Corrupt Practices in Elections

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11.9 Breach of Official Duty

11.10 Representation

11.11 Election Commission of India

11.12 Powers and Functions of the Election Commission

11.13 Role of the Commission

11.14 Electoral Reforms

Summary

Questions

11.0 Introduction

Elections are very important for political system of a modern democratic states. Modern democratic states have representative government. People participate in the process of government through their elected representatives. The election system is a political device through which the modern state creates among its citizens a sense of involvement and participation in public affairs. That is why a good electoral system is the bed-rock of a genuine representative government. In all democracies, especially in representative democracies, it is well known that the masses share the power by choosing their representatives through periodic general elections and by electing the representatives to the legislative organs of the states. The representatives become the spokesmen and agents of the people, while controlling the steering-wheel of the state. The elections are now held on the basis of adult franchise, single member constituencies, one elector one vote, secret ballot, direction and election by simple majority.

All citizens cannot take direct part in making every decision in the government. Therefore, representatives are elected by the people to fulfill the needs and aspirations of them. This is how elections

become important. Whenever we think of India as a democracy, our mind invariably turns to the last elections. Elections have today become the most visible symbol of the democratic process. We often distinguish between direct and indirect Democracy. A Direct Democracy is one where the citizens participate directly in the day to day decision making and in the running of the government. The ancient city-states in Greece were considered examples of Direct Democracy. Many would consider local government especially Gram Sabhas, to be the closest examples of Direct Democracy. But this kind of Direct Democracy cannot be practiced when a decision has to be taken by lakhs and crores of people. That is why rule by the people usually means rule by people's representatives.

11.1 Elections and Democracy

Elections are the central institution of democratic representative governments. In democracy, elections are periodic. Elected officials are accountable to the people, and they must return to the voters at prescribed intervals to seek their mandate to continue in office. This means that officials in a democracy must accept the risk of being voted out of office. In democratic system the elections are also inclusive. The definition of citizen and voter must be large enough to include a large proportion of the adult population. Democratic elections are definitive. They determine the leadership of the government. Subject to the laws and Constitution of the country, popularly elected representatives hold the reins of power. They are not simply figureheads or symbolic leaders. Democratic elections are not limited to selecting candidates only. They also decide policy issues directly through initiatives that are placed on the ballot. Elections serve an important function for individual citizen and for the political system. They are major agencies for the increasing politicization of any democratic society.

In such an arrangement, citizens choose their representatives who, in turn, are actively involved in governing and administering the country. The method followed to choose these representatives is referred to as an election. Thus, the citizens have a limited role in taking major decisions and in running the administration. They are not very actively involved in making of the policies. Citizens are involved only indirectly, through their elected representatives. In this arrangement, where all major decisions are taken by elected representatives, the method by which people elect their representatives becomes very important.

11.2 Electoral Functions

The electoral functions are different for the individual voter and for the political system. For the individual voter, elections may be regarded as a means of political participation and to some extent, of policy influencing, and policy choice, although for many voters. Even in democratic societies, elections may be a customary act to which little significance is attached.

For the political system, elections are important devices for assuring legitimacy and for system maintenance and support-building. Hence, the electoral functions may be considered into four broad categories. They are a) Political Choice, b) Political Participation, c) Support-building and system-maintenance, and d) Linkage functions.

11.2.1 Political Choice

The elections may be used or interpreted as a plebiscite, a referendum, or a mandate. They are the instruments for choosing the leaders and also determining the will of the people. They are devices for controlling political leaders. Control of leaders involves some degree of control of governmental choice and policies. They provide the means for the peaceful and orderly transfer of power.

11.2.2 Political Participation

The major electoral function is to provide opportunities and channels for political participation. This function of elections is a central one as political participation is essential in the democratic system. The participation strengthens the democratic system.

11.2.3 Support-building and System-maintenance

The elections support the political system by providing legitimacy, political stability, integration and identification. The elections are, therefore, a contributing rather than a controlling factor of a political system. Rosenau uses the term support-building as function of elections and hence, all other functions could be subsumed under it.

11.2.4 Linkage Functions

Elections are important agencies of political communication between the people and the government in the sense of political linkages. They provide a chance for the people to have more direct contact with their leaders.

11.3 Election System In India

Articles 324 to 329 in Part XV of the Constitution make the following provisions with regard to the electoral system in India.

1. The Constitution provides for an independent election commission in order to ensure free and fair elections.
2. There is to be only one general electoral role for every territorial constituency for election to the Parliament and state legislatures.
3. No person is to be ineligible for inclusion in the electoral roll on grounds of religion, race, caste, gender or any of them.

4. The elections to the Lok Sabha and State Legislative Assemblies are to be on the basis of adult franchise.
5. The Parliament may make provision with respect to all matters relating to elections to the Parliament and state legislatures.
6. The state legislatures can also make provision with respect to all matters relating to elections to the state legislatures including the preparation of nominal rolls.
7. The Constitution declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court.
8. The Constitution lays down that no elections to the Parliament or State Legislature is to be questioned except by an election petition presented to such authority and in such manner as provided by the appropriated legislature.

11.4 Features of Indian Election System

The following features of the Indian Election system highlight its well structure nature:

1. *Direct Election of Representatives*

The Constitution provides for a direct election of the representatives of the people. Members of the Lok Sabha, the State Legislative Assemblies, Municipalities and Village Panchayatas are directly elected by the people. These legislative bodies are the real centres of people's power in the Indian democratic system.

2. *Indirect Election for some Institutions*

However, the Constitution also provides for an indirect election in respect of the Rajya Sabha, State Legislative Councils and the President and the Vice President of India. These are elected indirectly and in accordance with a system of proportional representation vote.

3. *Universal Adult Franchise*

The Constitution provides for a uniform franchise to all the citizens. Initially, the right to vote was granted to all the citizens of 21 years of age without any discrimination on the basis of caste, religion, gender, education, property and place of birth. The voting age was later reduced to 18 years. Now all citizens of 18 years of age and above and whose names appear in the electoral lists, are eligible to exercise their vote in elections.

4. Reservation of seats for SCs and STs

With a view to safeguard the interests of the people belonging to the Scheduled Castes and Scheduled Tribes, the Constitution provided the reservation of seats for them. Article 330 of the Constitution provides the reservation of seats to these classes in the Lok Sabha and Article 332 lays down this provision in respect of elections to every state Assembly. In the reserved constituencies, persons belonging to SC and ST only can contest in the elections.

5. Provision for Nominations

The Constitution, under its Article 337, lays down that the President may, if he is of the opinion that the Anglo-Indian community is not adequately represented in the Lok Sabha, nominate not more than two members of the community to the Lok Sabha. Likewise, the Governor can also nominate not more than one person from this Anglo-Indian community to the State Legislative Assembly.

6. Regular revision of Electoral Rolls

The Election Commission revises and prepares the electoral rolls enumerating the names of the eligible voters for every ten years. Besides this, the Election Commission can order the revision of electoral rolls before any election. Provision also exists for a regular annual revision of electoral lists. Only those persons whose names appear in the electoral rolls of the constituency can exercise their franchise on the Election Day.

7. Territorial and Single Member Constituencies

Indian Election System provides for the creation of single-member territorial constituencies. All the voters living in a particular and defined territory constitute one constituency. Each territorial constituency elects one representative. Each state is divided into as many territorial constituencies as is the number of seats of its Legislative Assemblies and Parliamentary Constituencies, and each constituency elects one representative. Further, some of the constituencies are reserved constituencies from where the voters can elect only a person belonging to the reserved categories.

8. Delimitation of Constituencies

After every census the boundaries of the constituencies are delimited. This work is done by a three member Delimitation Commission. This commission can change the boundaries of constituencies, and its decision is final. This cannot be challenged before any court of law.

9. Secret Ballot

Secret voting enables the voters to exercise their votes in accordance with their wishes and opinions. Special steps are taken in elections for maintaining secrecy and for checking impersonation in voting. This system is essential for making elections free and fair.

10. Introduction of Voting Machines

The Election Commission has introduced the using of electronic voting machines (EVMs) for casting of votes by people and counting of votes in India.

11. Relative Majority of Votes System

In the election, the candidate who secures more votes than every other contestant in his constituency is declared elected as representative to the Lok Sabha or the State Legislative Assemblies. In this system, valid votes are taken into consideration for counting. The counting is done by the Returning Officer and his staff in the presence of the nominees of all the candidates. The victory in this system of election is determined on the basis of relative majority of votes or the first past the post system.

12. Independent Machinery for the conduct of Elections in India

According to the Article 324 of the Constitution, the conduct of elections in India is the responsibility of the Election Commission. It is the Constitutional body which is conducting the elections freely, fairly, impartially and independently.

11.5 Methods of Election

In a democratic system, people vote and their preference decides who will win the contest. But there can be very different ways in which people make their choices and very different ways in which their preferences can be counted. These different rules of the game can make a difference to who the winner of the game will be. Some rules can favour bigger parties; some rules can help the smaller players; some rules can favour the majority community and others can protect the minorities. Let us see how the election system works and how the voters choose their representatives in our country.

11.5.1 First Past the Post System (FPTP)

In our country we have been following a special method of elections. The entire country is divided into 550 constituencies, each constituency elects one representative and the candidate who secures the highest number of votes in that constituency is declared elected. It is important to note that in this system whoever has more votes than all other candidates is declared

elected. The winning candidate need not secure a majority of votes. This method is called the First Past the Post system (FPTP). In the election race, the candidate who is ahead of others, who crosses the winning post first of all, is the winner. This method is also called the Plural System. This is the method of election prescribed by the Constitution.

In India this FPTP System is popular and successful because of its simplicity. The entire election system is extremely simple to understand even for common voters who may have no specialized knowledge about politics and elections. There is also a clear choice presented to the voters at the time of elections. Voters may either give greater importance to the party or the candidate or balance the two. The FPTP system generally gives the largest party or coalition some extra bonus seats, more than their share of votes would allow. Thus, this system makes it possible for parliamentary government to function smoothly and effectively by facilitating the formation of a stable government. Finally, the FPTP System encourages voters from different social groups to come together to win an election in a locality. Above all, the FPTP System has proved to be simple and familiar to the ordinary voters. It has helped larger parties to win clear majorities at the centre and state levels.

11.5.2 Proportional Representation System

Under this system each party gets representation strictly in accordance with its voting strength. It means majority of electors would have majority of the representatives, but a minority of electors would have minority of representatives.

11.6 Election Process

Conduct of General Elections in India, for electing a new Lower House of Parliament (Lok Sabha) and Legislative Assemblies in the states, involves the management of the largest event in the world. Electoral process begins normally every five years with announcement by the President, in the case of election to the Parliament, and by the respective state Governors, in the case of election to the State Legislatures, calling upon the voters to elect their representatives. The elections to the Parliament and the State legislatures can be held at the same time or at different times. The Election Commission issues a notification regarding the election programme, setting dates for filling nomination papers of the candidates, scrutiny of their applications, withdrawals of candidature, publication of the final list of candidates and polling. Simultaneously, different parties and groups begin their own exercise of allotment of party tickets to the candidates for the various constituencies, in which they propose to contest. Nomination papers of the candidates are submitted to the Returning Officer appointed by the Commission, with a prescribed deposit of money, which a candidate forfeits if he fails to secure less than one-tenth of the total number of valid votes cast in his constituency.

The electoral process in India is operationalized in several stages which can be explained as under:

11.6.1 Delimitation of Constituencies

The first step of conducting the elections can be described as the delimitation of constituencies which is done by a Delimitation Commission appointed after every census by the President. This happens for every 10 years. Generally, a constituency which elects a member of the Lok Sabha consists of six or seven State Legislative Assembly constituencies. The decisions of the Delimitation commission are final and cannot be challenged in any court.

11.6.2 Recognition of Political Parties

Political parties have to be registered with the Election Commission. The Commission determines whether the party is structured and committed to principles of democracy, secularism and socialism in accordance with the Indian Constitution and would uphold the sovereignty, unity and integrity of India. Parties are expected to hold organizational elections and have a written Constitution. According to certain criteria, set by the Election Commission regarding the length of political activity and success in elections, parties are categorized by the Commission as National or State parties, or simply declared registered-unrecognized parties. National parties are given a symbol that is for their use only, throughout the country. State parties have the sole use of a symbol in the state in which they are recognized as such Registered-unrecognized parties can choose a symbol from a selection of 'free' symbols.

11.6.3 Photo Identity Cards

In an attempt to improve the accuracy of the electoral roll and prevent electoral fraud, the Election Commission ordered the making of photo identity cards for all voters in the country in Aug, 1993. To take advantage of latest technological innovations, the Commission issued revised guidelines for Election Photo Identity Card (EPIC) Program in May 2000.

11.6.4 Electoral Rolls

An important step in the conduct of elections is to get prepared constituency-wise electoral rolls which record the names of the eligible voters. The electoral rolls are revised after each census, before every election or after regular intervals. In 1998 the Commission took a historic decision to computerize the entire electoral rolls of 620 million voters. This work has been completed and now well printed electoral rolls are available. The photo identity card number of the voter has also been printed in the electoral rolls, for cross linking. National and State parties providing these free of cost after every revision of electoral rolls. Entire country's rolls are also available on Election Commission's website.

11.6.5 Notification and Appointment of Returning Officers

When general elections are to be held, the President of India sends a communication to the Election Commission and the latter, after consulting Central and State Governments, announces the poll calendar, i.e., the dates for filing the nomination papers, scrutiny of nomination papers and withdrawal of nominations by the candidates. The Election Commission then appoints Returning Officers for various constituencies. The Regional Election Commissioners help the Election Commission in the smooth conduct of elections.

11.6.6 Filing of Nomination Papers

The candidates who wish to contest in the elections have to file their nomination papers with the Returning Officer in their respective constituencies. Such candidates must submit their nominations in a given format prescribed by the Election Commission. If the contestant is a party candidate, the name has to be proposed by a voter and seconded by another voter. In the case of non-party contestant, the candidate has to be subscribed by 10 registered electors of the constituency as proposers. The party candidate contests in the election on his party's election symbol. Whereas the non-party candidates have to opt for their election symbols list released by the Election Commission. Further, the contesting candidate along with his nomination papers has to deposit a fixed amount as scrutiny money. In case he fails to secure at least 1/6th of the votes polled, he loses his deposit.

11.6.7 Scrutiny of Nominations

After the last date for the filing of the nominations, all the nomination papers are duly scrutinized by the Returning Officers in the presence of the candidates or his nominee. The scrutiny is conducted for determining whether the nomination papers have been filed properly, the candidates possess the required qualifications, and they have complied with all rules and regulations. Later, the Returning Officer decides all cases and notifies the names of those candidates whose nomination papers are found in order.

11.6.8 Withdraw of Nominations

After scrutiny, the candidates are allowed to voluntarily withdraw their nominations within a fixed date and time as fixed by the Election Commission. For this purpose a candidate has to apply in writing to the Returning Officer. After the withdrawal time is over, the stage is set for the launching of election campaign by the contestants. In case after withdrawal a single contestant is left in the field, he may be declared elected as unopposed.

11.6.9 Election Campaign

The next stage in the electoral process involves the election campaign. The contestants and parties get engaged in the election campaign. Each party issues an Election manifesto which states its policies, programmes and promises. The aim is to influence public opinion in its favour. They use wall posters, organize public meetings, advertisements in TV and Radio, personal appeals, door to door canvassing and by several other means try to impress the voters. The election campaign continues up to 24 hours before the time of the actual polling.

11.6.10 Electronic Voting Machines (EVMs)

An electronic voting machine is a simple electronic device used to record votes in place of ballot papers and boxes which were used earlier in conventional voting system. The advantages of the EVM over the traditional ballot paper system are given here:

- a) It eliminates the possibility of invalid and doubtful votes.
- b) It makes the process of counting of votes much faster than the conventional system
- c) It reduces to a great extent the quantity of paper used, thus saving a large number of trees
- d) It reduces cost printing as only one sheet of ballot papers required for each polling station.

11.6.11 Polling of Votes

Polling personnel are appointed and polling booths are set up in different localities. Each polling booth, on an average caters to about a more than thousand voters. The voting is a secret one. Instructions are given to voters as to how they could cast their vote through EVM. To avoid impersonation or bogus voting indelible ink is put on the point finger of the voter after he or she had exercised their vote.

11.6.12 Supervising Elections by Observers

The Election Commission appoints a large number of Election Observers to ensure that the campaign is conducted fairly, and that people are free to vote as they choose. Election Observers keep a check on the amount that each candidate and party spends on the election.

11.6.13 Media Coverage

In order to bring as much transparency as possible to the electoral process, the media are encouraged and provided with facilities to cover the election, although subject to maintaining the secrecy of the vote. Media persons are given special passes to enter polling stations to cover the poll process and the counting halls during the actual counting of votes.

11.6.14 Counting of votes and Declaration of Results

After the process of polling of votes, on a fixed day and time, the Returning Officer and his staff members open the voting machines in the presence of the agents. Then each candidate verifies his votes polled recorded in the EVM. A candidate who gets more valid votes than the other contesting candidate in every constituency is declared elected. These results declared on the basis of relative majority of vote victory system. The Returning Officer makes an announcement of the results in this regard.

11.6.15 Election Petitions

Any elector or candidate can file an election petition if he or she thinks there has been malpractice during the election. An election petition is not an ordinary civil suit, but treated as a contest in which the whole constituency is involved. Election petitions are tried by the High Court of the state concerned, and if upheld can even lead to the restaging of the election in that constituency.

11.7 Corrupt Practices in Elections

Any corrupt practice results in an election being declared void by the Election Commission. The person concerned is to be disqualified for future elections up to six years and could also be prosecuted. Following are some important corrupt practices during the elections. They are:

1. Bribing a person to induce him/her to stand or not to stand as a candidate.
2. Bribing a voter with distribution of money or material for casting or not casting his vote or casting hi/her vote for a particular candidate.
3. Interference with free exercise of anybody's electoral right.
4. Threat with injury of any kind, including social ostracism, excommunication, divine displeasure or spiritual censure.
5. Appeal on grounds of religion, caste, community, or language or the use of religious or national symbols.
6. Publication of false statement about personal character and conduct of any candidate.
7. Hiring or procuring of vehicles for free conveyance of voters.
8. Incurring of election expenditure by a candidate in excess of the prescribed limit.
9. Booth capturing.

11.8 Electoral Offences

Indulging in any of the illegal acts or methods is liable to imprisonment or fine or both. Imprisonment can vary from three months to three years. Let us see some of the electoral offences as given below:

1. Promoting enmity between classes or grounds of religion, race, community or language.
2. Convening, holding or attending any public meeting during 48 hours before the end of poll.
3. Causing disturbance at election meetings.
4. Printing of election pamphlets, posters etc., without printers/publishers names and addresses.
5. Violation of maintenance of secrecy of vote.
6. Influencing of voting by officials connected with conduct of elections and police personnel.
7. Disorderly conduct and disturbance in or near a polling station, indulging use of loud-speakers etc.
8. Canvassing within 100 meters of a polling station on the day of poll.
9. Misconduct at the polling station or failure to obey the lawful direction of the Presiding Officer.
10. Illegal hiring or procuring of vehicles for conveying voters to and from polling stations.
11. Unlawful removal of ballot papers/EVMs from the polling stations.
12. Booth capturing.

11.9 Breach of Official Duty

Any government official found guilty of breach of duty is liable for fine or imprisonment or both. Imprisonment would range from three month to three years. Some of the breaches of official duty is mentioned below:

1. Breach of official duty in connection with preparation, revision or correction of electoral roll or the inclusion or exclusion of any entry in or from the roll.
2. Non-maintenance of secrecy of voting.

3. Any acts of officers at election for the furtherance of the prospects of the election of a candidate.
4. Breaches of official duty assigned in connection with the conduct of elections.
5. Acting as election agent, by government servants.
6. Act of booth capturing committed by a person in the service of the government.

11.10 Representation

Democracy implies popular sovereignty. Democracy means government by the people, of the people and for the people. In modern state, people did not directly participate in the process of government. Direct participation of citizens becomes impossible due to the vastness of the territory, huge population, long distance etc. Hence, modern democracies have to be indirect democracies run by the representatives chosen by the people. Thus, the modern democracy is in Direct Democracy or representative democracy. Under this system, the voters elect representatives to perform the functions of legislation on their behalf. He represents the people in the legislature.

An elected representative has two duties to perform – a) to act as an agent of his voters and his constituency, b) to act as a delegate of whole people, whose judgment, experience and wisdom should be available for the larger good. The entire world knows two criteria of general representation, namely, a) territorial or geographical division of constituencies and b) functional or occupational basis for composing a constituency. Over and above the general interests of the entire people, it is necessary to make arrangements for representation of special interests like those of minorities (religious, ethnic, linguistic, cultural etc.) and of professional-vocational groups (like commerce, trade unions, farmers, teachers, lawyers etc.)

Origin and Growth of Representative System

The Representative System might have originated in the Middle Ages as a device used by certain monastic orders. Similarly, it was applied to councils called by Kings for consultation on financial matters. The Representatives, thus consulted by the King had very little power. Since the end of the 13th and the beginning of the 14th centuries representative bodies like the Parliament in England, Estate General in France, Cortes in Spain, Diet in Germany etc., had come to play an important role in the national affairs. The 19th Century witnessed the gradual extension of the universal adult franchise. In Britain various acts were made by the House of Commons, a representative body to provide various rights to all people. In other countries the representative bodies were created. By the end of the third decade of the 20th Century, women also have been admitted to the franchise on equal terms with men in both Britain and America.

Theories of Representation

In democracy people elect members to the legislatures. The elected members are the representatives of the people. They represent the people in the legislature. This process is called representation. This representation has three theories. They are as follows:

1. **Primitive Tribal Theory:** This practice was followed during the Greek City-States. Under this system, only the people having membership of the State had the right to vote. Slaves were not considered as members of the state.
2. **Feudal Theory:** It highlights the property condition of voting right in a state. It was in the middle ages in the European Countries.
3. **Ethical Theory:** This theory considers voting rights a natural and inherent right of every citizen. Universal Franchise is accepted under this theory. This theory is in vogue in present day democratic states.

Methods of Representation

Representation is an essential aspect of representative form of democracy. There are three methods of representation, namely:

- i. Territorial Representation
- ii. Functional Representation
- iii. Plural Representation

i. Territorial Representation

In the territorial or geographical representation system, the total electorate of the country is divided into territorial units called constituencies which elect one or more representatives. The constituencies are more or less equal in size and population. All voters living in a particular Constituency take part in the election of representatives. Where one representative is elected from a constituency it is known as a single-member constituency. Where more than one representative is elected, it is known as multi-member constituency. Most of the modern states, including India, have followed single-members constituencies for the elections to the lower houses of the legislature.

ii. Functional Representation

It is based on occupation. People engaged in the same kind of occupation have more things in common than people living in the same locality. Doctors, farmers, industrial workers, traders, journalists, lawyers, teachers etc., have more in common than those who live as neighbors. One man cannot represent all trades. Hence,

representation should be on functional basis. A legislature representing such different occupational groups would be a proper forum where different interests would be projected and pleaded for. But it is not possible to provide representation to each and every occupation which are innumerable in number and the classification of profession is a touch task.

iii. Plural Representation

Under this system one man is given more than one vote on the basis of electoral, professional or property qualifications. Thus, the modern states have not accepted the principle of plural voting but accepted universal principle of ‘one man one vote’.

Representation in Lok Sabha Elections in India

Year	No. of Candidates Contested	Electorates (million)
First -1952	1874	173.21
Second- 1957	1519	193.65
Third -1962	1985	217.68
Fourth -1967	2369	274.60
Fifth -1971	2784	274.09
Sixth -1977	2439	321.17
Seventh – 1980	4462	363.97
Eight -1984	5493	400.10
Ninth -1989	6160	499.00
Tenth -1991	8699	514.00
Eleventh -1996	13952	592.57
Twelfth -1998	4750	605.58
Thirteenth - 1999	4648	605.88
Fourteenth - 2004	5435	671.00
Fifteenth – 2009	8070	713.77
Sixteen – 2014	8251	814.50

Representation by Parties in Lok Sabha

Year	Elective Seats	Seats won by Parties
First -1952	489	Congress-364
Second- 1957	489	Congress-371
Third -1962	489	Congress-361
Fourth -1967	489	Congress-283
Fifth -1971	489	Congress-352
Sixth -1977	494	Janatha-298
Seventh - 1980	494	Congress- 353
Eight -1984	520	Congress-415
Ninth -1989	543	Congress-197
Tenth -1991	543	Congress-232
Eleventh -1996	543	BJP -161
Twelfth -1998	543	BJP-182
Thirteenth - 1999	543	BJP – 182
Fourteenth - 2004	543	Congress-145
Fifteenth - 2009	543	Congress-206
Sixteen - 2014	543	BJP- 282 & Allies-54

Women Representation in Lok Sabha Elections in India

Year	No. of Candidates contested	Elected
First -1952	-	22
Second- 1957	45	27
Third -1962	70	34
Fourth -1967	67	31
Fifth -1971	86	22
Sixth -1977	70	19
Seventh – 1980	142	28
Eight -1984	164	44
Ninth -1989	198	27
Tenth -1991	325	39
Eleventh -1996	599	40
Twelfth -1998	274	43
Thirteenth - 1999	284	49
Fourteenth - 2004	355	45
Fifteenth - 2009	556	59
Sixteen – 2014	631	66

Keeping all these in mind, the modern democratic states preferred the method of territorial representation system rather than functional or plural representation. However, the method of functional representation is sometimes incorporated in the composition of the Upper House in a bicameral legislature, like in the Rajya Sabha and State Legislative Councils in Indian.

11.11 The Election Commission of India

Several efforts have been made in India to ensure free and fair election system and process. The most important among these efforts is the creation of an independent Election Commission. Article 324 (1) of the Constitution provides the Election Commission to supervise

and conduct the elections to parliament, state legislatures, the offices of the President and the Vice-President of India. It must be noted that here the Election Commission is not concerned with the local bodies in the states. For this, the Constitution of India provides for a separate State Election Commission.

The Election Commission of India is a permanent, autonomous, constitutionally independent body. It is established by the Constitution for administering all the electoral process in the Republic of India. Under the supervision and control of the Commission, free and fair elections have been held at regular intervals as per the provisions enshrined in the Constitution. Elections are conducted according to the Constitution provisions supplemented by laws made by Parliament.

11.11.1 Composition

Article 324 of the Constitution has made the following provisions with regard to the composition of election commission. Since its inception 1950 and till 15th Oct, 1989, the Election Commission functioned as a single member body consisting of the Chief Election Commissioner. On 16th October, 1989 the President of India appointed two more election commissioners to cope up with the increased work of the Election commission. Thereafter, the Election Commission started functioning as a multi-member body consisting of 3 Election Commissioners.

11.11.2 Tenure

The Chief Election Commissioner and two other Election Commissioners have equal powers and receive equal salary and allowances which are similar to that of a judge of a Supreme Court. The Chief Election Commissioner and other Commissioners hold office for a term of 6 years or until they attain the age of 65 years whichever is earlier. They can resign at any time or they can also be removed by the President on the basis of a resolution passed to that effect by both the Houses of Parliament with special majority, either on the ground of proved misbehavior or incapacity.

11.11.3 Appointment

The Chief Election Commissioner and other Commissioners are appointed by the President. In view of the increasing workload of the commission during the general elections to Parliament or State Legislatures, the President may appoint regional commissioners after consultations with the Chief Election Commissioner. The Election Commission is assisted by Deputy Election Commissioner belonging to the Civil Service and appointed by the Commission. At the state level, the Election Commission is assisted by the Chief Electoral

Officer who is appointed by the Chief Election Commissioner in consultation with the State Government. Below this at the district level, the Collector acts as the District Returning Officer. He appoints a Returning Officer for every constituency in the district and Presiding Officer for every polling both in the Constituency.

Succession of Chief Election Commissioners of India

Sl.No	Chief Election Commissioners	Fom	To
1	Sukumar Sen	21-03-1950	19-12-1958
2	K.V. K. Sundaram	19-12-1958	30-09-967
3	S.P. Sen Verma	30-09-1967	30-09-1972
4	Dr. Nagendra Singh	30-09-1972	06-02-1973
5	T. Swaminathan	06-02-1973	18-06-1977
6	S.L. Shakdhar	18-06-1977	18-06-1982
7	R.K.Trivedi	18-06-1982	31-12-1985
8	R.V.S. Perishastri	01-01- 986	15-11-1990
9	Smt. V.S. Rama Devi(Acting)	15-15-1990	12-12-1990
10	T.N.Sheshan	12-12-1990	11-12-1997
11	M.S. Gill	12-12-1997	13-06-2001
12	J.M. Lyngdoh	14-06-2001	07-02-2004
13	T.S. Krishna Murti	08-02-2004	16-05-2005
14	B.B. Tandon	17-05-2005	29-06-2006
15	N. Gopalaswamy	30-06-2006	20-05-009
16	Naveen Chawla	21-04-2009	29-07-2010
17	S.Y. Qureshi	30-07-2010	10-06-2012
18	V.S. Sampath	10-06-2012	15-01-2015
19	H.S. Bramha	15-01-2015	18-04-2015
20	Nazim Ahmed Zaidi	19-04-2015	Till date

11.12 Powers and Functions of Election Commission

The Constitution of India in its Articles 324-328 enumerates the powers and functions of the Election Commission. These can be mentioned hereunder:

1. It prepares all periodically revised electoral rolls.
2. It makes every effort to ensure that the voters' list is free of errors like non-existence of names of registered voters or existence of names of that non-eligible or non-existent.
3. It notifies the dates and schedules of election and scrutinizes nomination papers.
4. During this entire process, the Election Commission has the power to take decisions to ensure a free and fair poll.
5. It can postpone or cancel the election in the entire country or a specific State or constituency on the grounds that the atmosphere is vitiated and therefore, a free and fair election may not be possible.
6. The Commission also implements a model code of conduct for parties and candidates. It can order a re-poll in a specific constituency.
7. It can also order a recount of votes when it feels that the counting process has not been fully fair and just.
8. The Election Commission accords recognition to political parties and allots symbols to each of them.
9. It advises the President whether elections can be held in a state under President's rule in order to extend the period of emergency after one year.
10. It advises the Governor on matters relating to the disqualifications of the members of State Legislature.

11.13 Role of Election Commission

Over the years, the Election Commission of India has emerged as an independent authority which has asserted its powers to ensure fairness in the election process. It has acted in an impartial and unbiased manner in order to protect the sanctity of the electoral process. The record of EC also shows that every improvement in the functioning of institutions does not require legal or Constitutional change. It is widely agreed that the Election Commission is more independent and assertive now than it was till twenty five years ago. This is not because the powers and Constitutional protection of the Election Commission have increased. The Election Commission has started using more effectively the powers it always had in the Constitution.

In the past sixty five years, Sixteen Lok Sabha elections have been held. Many more state assembly elections and bye-elections have been conducted by the Election Commission. The Election

Commission has faced many difficult situations such as holding elections in militancy affected areas like Assam, Punjab or Jammu and Kashmir. It has also faced the difficult situation of having to postpone the election process mid-way in 1991 when the ex-Prime Minister Rajiv Gandhi was assassinated during the campaigning. In 2002, the EC faced another critical situation when the Gujarat Assembly was dissolved and elections had to be conducted. But the EC found that unprecedented violence in that State had made it impossible to hold free and fair elections immediately. The Election Commission decided to postpone elections to the State Assembly by a few months. The Supreme Court upheld this decision of Election Commission.

11.14 Electoral Reforms

No system of election can ever be perfect. And in an actual election process, there are bound to be many flaws and limitations. Any democratic society has to keep searching for mechanisms to make elections free and fair, independent and impartial to the maximum. With the acceptance of adult suffrage, freedom to contest elections, and the establishment of an independent Election Commission, India has tried to make its election process free and fair. However, the experience of the last sixty five years has given rise to many suggestions for reforming our election system. The Election Commission, Political Parties, various independent groups, and many scholars have come up with proposals for electoral reforms.

The various committees and commissions which were appointed to examine our electoral system, election machinery as well as election process are as follows:

1. Tarkunde Committee was appointed in 1974 by Jaya Prakash Narayan during his “Total Revolution” Movement. This unofficial committee submitted its report in 1975.
2. Dinesh Goswami Committee on Electoral Reforms (1990)
3. Vohra Committee on the Nexus between Crime and Politics (1993)
4. Indrajit Gupta Committee on State Funding of Elections (1998)
5. Law Commission of India Report on Reform of the Electoral Laws (1999)
6. National Commission to Review the Working of the Constitution (2000-2002) headed by M.N.Venkatachalaiah.
7. Election Commission of India Report on Proposed Electoral Reforms (2004)
8. Second Administrative Reforms Commission of India Report on Ethics in Governance (2007) headed by Veerappa Moily.
9. Tankha Committee was appointed in 2010 to look into the whole gamut of the election laws and electoral reforms.

The above Committees and Commissions have recommended various reforms that have to be introduced in our electoral system, election machinery and election process. These can be mentioned briefly hereunder:

1. Lowering of Voting Age

To give an opportunity to unrepresented youth of the country, the 61st Constitutional Amendment Act of 1998 reduced the voting age from 21 years to 18 years both for Lok Sabha and the Assembly Elections. This was done to provide an opportunity to express the youth feelings and help them become a part of country's political process.

2. Deputation to Election Commission

In 1988, a provision was made that the officers and the staff engaged in preparation, revision and correction of electoral rolls for elections are deemed to be on deputation to the Election Commission for the period of such employment. These personnel, during that period, would be under the control, superintendence and discipline of the Election Commission.

3. Electronic Voting Machines

In 1989, a provision was made to facilitate the use of Electronic Voting Machines (EVMs) in elections. The EVMs were used for the first time in 1998 on experimental basis in selected constituencies in the election to the Assemblies of Rajasthan, Madhya Pradesh and Delhi. The EVMs were used for the first time in the General Elections for the entire nation in 1999.

4. Prohibition on the sale of liquor

No liquor or other intoxicants are to be sold or given or distributed at any shop, eating place, hotel or any other place whether public or private within a polling area during the period of 48 hours ending with the hour fixed for the conclusion of poll. Any person who violates this rule is to be punished with imprisonment up to 6 months or with fine up to Rs.2,000/- or with both.

5. Number of Proposers

The nomination of a candidate in a Parliamentary or assembly constituency should be subscribed by 10 registered electors of the constituency as proposers, if the candidate is not sponsored by a recognized political party. In the case of a candidate sponsored by a recognized political party, only one proposer is required. This is done in order to discourage non-serious people from contesting the elections.

6. *Death of a candidate*

Earlier, in case of death of a contesting candidate before the actual polling, the election used to be countermanded. Consequently, the election process had to start all over in the concerned constituency. But now, the election would be countermanded on the death of a contesting candidate before the actual polling. However, if the deceased candidate belonged to a recognized political party, the party concerned would be given an option to propose another candidate within seven days.

7. *Contestants restricted to Two constituencies*

A candidate would not be eligible to contest from more than two Parliamentary or assembly constituencies at a general election or at the by-election which are held simultaneously. Similar restrictions are imposed for biennial elections and by-elections to the Rajya Sabha and the state legislative councils.

8. *Prohibition of Arms*

Entering into the neighborhood of a polling station with any kind of arms is to be considered a cognizable offence. Such an act is punishable with imprisonment of up to two years or with fine or with both. Further, the arms found in possession of the offender are to be confiscated and the related license is to be cancelled. But, these provisions are not applicable to the returning officer, presiding officer, any police officer or any other person appointed to maintain peace and order at the polling station.

9. *Effective campaigning period reduced*

The minimum gap between the last date for withdrawal of candidature and the polling date has been reduced from 20 days to 14 days.

10. *Voting through Postal Ballot*

In 1999, a provision was made for voting by certain classes of persons through postal ballot. Thus, any class of persons can be notified by the Election Commission, in consultation with the, and the persons belonging to such notified class can give their votes by postal ballot, and not in any other manner, at elections in their constituency or constituencies.

11. *Facility to opt to Vote through Proxy*

In 2003, the facility to opt to vote through proxy was provided to the service voters belonging to Armed Forces and members belonging to a force to which provisions of the Army Act apply. Such service voters who opt to vote through proxy have to appoint a proxy in prescribed format and intimate the Returning Officer of the constituency.

12. Declaration of Criminal Antecedents, Assets etc., by candidate

In 2003, the Election Commission issued an order directing every candidate seeking election to the Parliament or a State Assembly to furnish on his nomination paper the information on the following matters:

- i. Whether the candidate has been convicted or acquitted or discharged in any criminal offence in the past? Whether he/she was imprisoned or fined?
 - ii. Prior to six months of filing nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charges were framed or cognizance was taken by a court.
 - iii. The assets (immovable, movable, bank balances, etc.,) of a candidate and his/her spouse and that of dependents
 - iv. Liabilities, if any, particularly whether there are any dues of any public financial institution or government dues.
 - v. The Educational qualifications of the candidate.
- Furnishing of any false information in the affidavit is now an electoral offence with imprisonment up to six months or fine or both.

13. Free supply of Electoral Rolls

According to a 2003 provision, the Government should supply, free of cost, the copies of the electoral rolls and other prescribed material to the candidates of recognized political parties and other contesting candidates for the Lok Sabha and State Assemblies.

14. Parties entitled to accept contribution

In 2003, the political parties were entitled to accept any amount of contribution from any person or company other than a government company. They have to report any contribution in excess of Rs.20,000/- to the Election Commission for making any claim to any income tax relief.

15. Restrictions imposed on Exit Polls

According to 2009 provisions, conducting exit poll and publishing results of exit polls would be prohibited during the election to Lok Sabha and State Assemblies. Thus, no person shall conduct any exit poll and publish by means of the print or electronic media or disseminate in any other manner, the result of any exit poll during the period notified by the Election Commission in this regard.

16. Increase in security deposit

In 2009, the amount of security deposit to be paid by the candidates contesting elections to the Lok Sabha was increased from Rs.10,000/- to Rs.25,000/- for the general candidates and from Rs.5,000/- to 12,500/- for SC and ST candidates. Similarly, the security deposit in the case of elections to the state legislative assembly was increased from Rs.5,000/- to Rs.10,000/- for the general candidates and from Rs.2,500/- to Rs.5,000/- for the SC and ST candidates. This was done in order to check the multiplicity of non-serious candidates.

17. Voting rights to Citizens of India living Abroad

In 2010, a provision was made to confer voting rights to the citizens of India residing outside India due to various reasons. Accordingly, every citizen of India – a) whose name is not included in the electoral roll, b) who has not acquired the citizenship of any other country, c) who is absent from his place of ordinary residence in India owing to his employment, education or otherwise outside India, shall be entitled to have his name registered in electoral roll in the Parliamentary/Assembly constituency in which his place of residence lies in India.

18. Ceiling on Election expenditure increased

In 2011, the Central Government raised the maximum ceiling on election expenditure by the candidates for a Lok Sabha seat in bigger states to Rs.40 Lakhs. In other states and union territories, it varies between Rs.16 Lakhs and Rs.40 Lakhs. Similarly, the limit for an Assembly seat in the bigger states was increased to Rs.16 lakhs. In other states and union territories, it varies between Rs.8 lakhs and Rs.16 lakhs.

Summary

This chapter furnishes vital information regarding the elections and the role of elections in democratic type of government. Besides, the student acquires a good knowledge and awareness about the election system, processes and various methods which are adopted by the Government of India. A close study of this chapter makes the student to know about the concept of representation, theories and types of representation in detail. This chapter helps the student to understand the corrupt practices and election offences which impede the free, impartial, independent and fair electoral system in India.

Another interesting aspect which the student comes across in this chapter is the Election Commission. The Constitution grants some powers to the Chief Election Commissioner which he can exercise in his good discretion. It becomes his responsibility to keep himself above controversies, to preserve the dignity of his high office, and to ensure cooperation and coordination in the working of the three members Election Commission of India. There is no consensus about suggestions on electoral reforms. Even if there was a consensus, there are limits to what the laws and formal provisions can do. Free and fair elections can be held only if the candidates, the parties and those involved in the election process agree to abide by the spirit of democratic competition. Apart from legal reforms, there are two other ways of ensuring that elections reflect the expectations and democratic aspirations of the people. One is, of course, that people themselves have to be more vigilant, more actively involved in political activities. But there are limits to the extent to which ordinary people can engage in politics on a regular basis. Therefore, it is necessary that various political institutions and voluntary organizations are developed and are active in functioning as watchdog for ensuring free and fair elections in India.

QUESTIONS

I. Long Answer Questions

1. Write an essay on the election system in India.
2. Explain the functions of Election Commission in India.
3. What is Representation? How many types of representative systems are there in India?
4. Do you think that Indian Election System needs to be reformed?

II. Short Answer Questions

1. Write a short note on Electoral Functions.
2. Discuss the election process in India.
3. Write a short note on composition and functions of Election Commission.
4. What is Representation? What do you know about Territorial Representation?
5. Estimate the pros and cons of FPTP System in India.
6. Write a note on the electoral reforms.
7. What is mean by Proportional Representation System?

III. Very Short Answer Questions

1. Relations between democracy and elections.
2. Electronic Voting Machines.
3. Territorial Representation
4. Functional Representation
5. Composition of Election Commission of India
6. Electoral Reforms
7. Election offences
8. Corrupt practices in elections
9. Role of the Election Commission in India.
10. Representation

CHAPTER 12



Political Parties

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- 12.1 Meaning & Definitions
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12.0 Introduction

Political Parties are the voluntary associations of individuals who share the same political views and who try to gain political power through Constitutional means. A political party desires to work for the promotion of national interest. The primary business of political parties are to mobilize the electorates, influence them, win elections, form the government so as to accomplish the policies and programmes outlined in their election manifesto. They are essential actors in a democratic political system. The political parties are playing a significant role in the 21st Century all over the globe. Political parties have a special importance in democracy because during the elections they create consciousness among the voters. They keep the nation alive politically. They create interest among the voters in politics, political awareness among the masses and attract them towards the important issues in the country.

When we think of elections, we think of parties. Election is not only a contest between the persons but between the parties. Parties nominate the candidates and organize the election campaign to win the popular vote in favour of their party candidates. When the campaign goes on in a constituency, for instance, it is not only

the candidates who organize and speak at meetings, important leaders from their parties also conduct the campaign for them. In the elections, party candidates are elected to legislatures. Who forms the government, at the central or at the state levels, depends on which party has got the majority in the legislature. Finally, the Prime Minister or the Chief Minister holds that post because they are the leaders of the majority party in the legislature. If a government falls, the leaders of another party will be asked to form the Government. So we see that parties play an important role in a democratic government at every step. Normally, parties are not part of the formal arrangement of our government. But it will be a mistake to believe that they are unimportant.

12.1 Meaning and definitions of Political Party

Political parties are the life blood of democracy. Political Parties mould public opinion and create an order out of the chaos of individual opinion. Parties are important means of forming and enhancing the effectiveness of public opinion. They serve as intermediaries between the citizens and policy makers. Political parties are not only a political group, but an autonomous and organized group that makes nominations and contest elections. In general sense, Political Party is an organized group of citizens having the purpose of controlling the government through shared interest, by replacing some of its members in public office.

Political Parties are defined by various political scientists in different ways. Some of them are given below:

1. **Lord Bryce** : “Parties are inevitable. No free, large country has been without them. No one has shown how representative Government could be worked without them.”
2. **Edmund Burk**: “A Political Party is a body of men united for the purpose of promoting by their joint endeavors, the public interest, upon same principle in which they are agreed”.
3. **Gilchrist**: “Political Party as an organized group of citizens who profess to share the same political views and who acting as a political unit try to control the Government”.
4. **Leacock**: “A Political Party is a more or less organized group of citizens who act together as a political unit”.

12.2 Characteristics of Political Parties

The following are the important characteristics of political parties.

1. A party should consist of a group of persons of common interest and shared values.
2. A party should have its own ideology and programme
3. It should capture power only by Constitutional means through elections.
4. It should endeavour to promote the national interest and national welfare.

12.3 Types of Political Parties

There are four types of Political Parties in the modern democratic states. They are:

- 1) Reactionary Parties
- 2) Conservative Parties
- 3) Liberal Parties, and
- 4) Radical Parties.

The Reactionary Parties are those which are clinging to the old socio-economic and political institutions. The Conservatives believe in the status-quo. The Liberal Parties aim at reforming the existing institutions. The Radical Parties aim at establishing a new order by overthrowing the existing institutions. Parties are also again classified on the basis of ideologies. The political scientists have placed the radical parties on the left, the liberal parties in the Centre and the reactionary and conservative parties on the right. In other words, they are described as the 'leftist parties', 'centrist parties' and 'rightist parties'.

12.4 Functions of Political Parties

The following are the main functions of political parties:

1. They articulate and aggregate social interests of people

Parties express public expectations and demands of social groups to the political system. Parties put forward different policies and programmes for the welfare of people. These political parties are articulate and aggregate the people's demands and channelize them into political system for policies. These policies and programme will reflect the expectations and aspirations of public. Each of us may have different opinions and views on what policies are suitable for the society.

2. Political Recruitment

Political parties perform the recruitment function in the political system and nurture the future generations of politicians rather leaders. Political parties are nurseries of leadership. Parties recruit leaders, train them and then make them ministers to run the government in the way they want. By this recruiting function, they provide leadership to the country.

3. Means of Public Opinion

They raise and highlight the people's problems and issues. Parties have lakhs of members and activists spread all over the country. Political parties may agitate and launch movements for the solution the problems faced by people. Political parties demand the government for welfare policies and their programmes will reflect the opinion of the people.

4. They promote Political Socialization and Participation of Citizens

Political parties are the platform to the citizens to participate in the governmental process either directly or indirectly. They are the channels of communication between the people and government. Parties create a link between citizens and the political system; they enable political participation of individuals and groups with the prospect of success. They educate the citizens and prepare them for their adult roles as citizens and voters.

5. Making laws

When parties come to power, they make laws for the country. Formally, laws are debated and passed in the legislature. Members of the ruling party follow the directions of party leaders, irrespective of their personal opinions. Opposition parties also participate in the discussion and debates, and suggest the changes in the policies and programmes of the government.

6. Role of Opposition

Parties that lose in elections, play the role of Opposition to the parties in power by criticizing the government for its failures or wrong policies. They can evaluate the performance of the ruling party and inform to the public about the merits and demerits of the policies and acts made by it. The Opposing parties also act like speed breakers to the ruling party by criticizing and highlighting the failures of it. That's why they are known as watch dogs of the democracy.

7. Access to government machinery and welfare schemes

For an ordinary citizen, it is easy to approach a local party leader than a government officer. That is why they feel close to parties even when they do not fully trust them. Parties have to be responsive to people's needs and demands.

8. They contribute legitimacy to the Political System:

In establishing the connection between citizens, social groups and the political system, the parties contribute in anchoring the political order in the consciousness of the citizens and in social forces.

In brief, a political party acts as a buffer between the government and the individual, chooses candidates for election, educates and stimulates public opinion, assumes responsibility for the government, offers criticism and provides alternative government.

12.5 Party System

As human history has progressed through different stages of socio-economic growth and techno-scientific development, forms and purposes of human organizations have also changed. "As society changes, its culture, economy and politics also change. Modern age is an age of mass society, and of large populations. In this modern age, the state is a territorial

sovereign state, whose ideal form of government is run through one or the other method of representative institutions. Party System is a modern phenomenon which has less than 200 years of age. Parties and party system emerged in Europe, North America and Japan around the third decade of the 19th Century.

The party system refers to complex social and political processes, individual leaders, societal associations, political groups and organizations and their interaction and interrelationships. These interaction patterns are governed by Constitutions, statutes, rules, regulations and institutions, but also political attitudes and behaviors in a society and polity. This kind of interaction is reflected in ideologies and personalities, party building and fragmentation, support and protest, voter mobilization and electoral competition. In a multi-cultural society like India, coalition building takes place at different level, i.e. national, interregional, regional, rural, urban levels etc. The parties are at the center of Indian politics as in any other major democracy.

Rajni Kothari has argued in his book “Politics in India” that the party system evolved from an identifiable political Centre. This political Centre, carved during the nationalist movement, comprised of the political elite sharing common socio-economic background i.e. educated, urban, upper-caste people belonging mainly to middle and upper classes.

12.6 Types of Party System

There are different types of party system which are discussed below. They are classified into a Single Party System, Bi-Party System and Multi-Party System.

12.6.1 Single Party System

In a Single Party System only one political party is in existence. The other political parties are not allowed to function. It is possible that the dissension and grouping may exist within the same political party, viz., Nazi Party in Germany, Fascist Party in Italy, Communist Party in China and in former USSR.

12.6.2 Bi-Party System

Under Bi-Party System, two major political parties are in working in a political system; one forms the government and the other functions as Opposition. Political power in such cases alternate between the two major political parties, viz., the Labour and the Conservative parties in UK or Republican and Democratic Parties in USA.

12.6.3 Multi Party System

In Multi-Party System there are more than two parties operating in a political system. But in practice they are aligned with either the ruling party or the Opposition Party. This type of party system is in existence in India, France, Sweden and Norway etc.

12.7 Party System in India

The party system we have in India is quite different from either of the two cases we have studied. It is neither a single party system, nor two-party system. The party system in India is Multi-Party System. In India, politics is dominated by several national and regional parties. Of them, the Indian National Congress has been the most dominant one. Most of the time it had power at the Centre and also in many of the states.

India's party system originated in the late 19th century as a response to the British colonial challenge. In the long drawn struggle against imperial domination, it represented an assertion of national solidarity of the Indian people, not only for liberation from foreign rule but also, and more importantly, for building eventually a new structure of democratic India.

The beginning of the Indian party system can be traced to the formation of the Indian National Congress as a political platform in 1885. For over six decades (1885-1947), under the shadow of the British Raj, the growth and role of the Indian Party System was conditioned by the colonial policy of divide and rule, through separate communal electorates which led to the formation of communal parties and groups in India, like the Muslim League, the Hindu Mahasabha, and the Akali Dal. Communalization of politics fragmented national unity, weakening the emerging solidarity against colonialism, dividing the people on caste and community lines and disrupting the development of a secular party system in India. Therefore, when India became independent, the Indian Party System was in disarray. After the adoption of a democratic Constitution, a new and different party system emerged in the wake of the first general elections in 1952 based on universal adult franchise. After independence, however, the Congress constituted itself as a federal political power structure. From a triumphant national movement it became a dominant ruling party in Indian Political System.

In India, politics is dominated by several national and regional parties. Of them, the Indian National Congress has been the most dominant one. But in the general Elections of 1977, the Congress Party was defeated by the Janta Party which was formed as a result of the merger of many Opposition Parties. But again in the General Elections of 1980, the Congress came back to power and remained in power till 1989. However, the 1989 elections marked a change in this pattern of Congress Dominance. Though the Congress was still the single largest party but it could not draw support from any other group to form the government. The National Front formed the Government with the support of BJP and Left Front. This was a new experiment which could not continue beyond a brief period. In 1991 Elections, the Congress again formed the government at the Centre with the support of some other national and regional parties.

From the 11th Lok Sabha Elections to the 15th Lok Sabha Elections, no party could get the required majority, and as a result the central government was led by coalition of parties. Since then the coalition era has started in Indian Political System and the same has been continued even today. The present BJP led NDA Government is also a group of coalition. The composition of parties in Lok Sabha over the years reveals on the one hand the multi-party system and on the other the dominant position of the Congress Party.

12.8 Characteristic Features of Indian Party System

The Indian party system has the following characteristic features:

1. *Multi-Party System*

The continental size of the country, the diversified character of Indian Society, the adoption of universal adult franchise, the peculiar type of political process and other factors have given rise to a large number of political parties. In fact, India has the largest number of political parties in the world. At present there are 6 National Parties, 64 State Parties and 1737 registered-unrecognized parties in the country. Further, India has all categories of parties – leftist parties, centrist parties, rightist parties, communal parties, non-communal parties and so on. Consequently, the hung Parliament, hung Assemblies and coalition governments have become a common phenomena in Indian Political System.

2. *One-Party Dominance System*

In spite of the multi-party system, the political scene in India was dominated for a long period by the Congress party. Hence, Rajani Kothari, an eminent political scientist, preferred to call the Indian Party System as ‘one party dominance system’ or the ‘Congress System’.

3. *Lack of Clear Ideology*

Except the BJP, CPI and CPM, all other parties do not have a clear-cut ideology. They are ideologically close to each other. They have close resemblance in their policies and programmes. Almost every party advocates democracy, secularism, socialism and Gandhism. More than this, every party has only one consideration i.e., power capture. Thus, politics has become issue based rather than the ideology and pragmatism has replaced the commitment to the principles.

4. *Personality Cult*

Quite often the parties are organized around an eminent leader who becomes more important than the party and its ideology. Parties are known by their leaders rather than by their manifesto. It is a fact that the popularity of the Congress was mainly due to the leadership

of Nehru, Indira Gandhi and Rajiv Gandhi. Similarly, the AIADMK in Tamil Nadu and TDP in Andhra Pradesh got identified with M.G. Ramachandran and N.T.Rama Rao respectively. In Tamil Nadu, after M.G.Ramachandran, Jayalalitha became the icon of the party for this culture. Hence, it is said that “there are political personalities rather than political parties in India”.

5. *Traditional Factors*

In the Western Countries, the political parties are formed on the basis of socio-economic and political programme. On the other hand, a large number of parties in India are formed on the basis of religion, caste, language, culture, race and so on. For example Shiv Sena, Muslim League, Hindu Maha Sabha, Akali Dal, Bahujan Samajwadi Party, Gorkha League etc., work for the promotion of communal and sectional interests and thereby undermine the general public interest.

6. *Emergence of Regional Parties*

Another significant feature of the Indian Party System is the emergence of a large number of regional parties and their growing role. They have become the ruling parties in various states like BJD in Orissa, DMK and AIADMK in Tamil Nadu, Akali Dal in Punjab, AGP in Assam, National Conference in J& K, JD(U) in Bihar and so on. These regional parties have come to play a significant role in the national politics due to coalition governments at the Centre. In 1984 elections, the TDP emerged as the largest Opposition party in the Lok Sabha and played a decisive role in national politics. In one context, i.e., during the NDA Government when Vajpayee was the Prime Minister at the Centre, Nara Chandra Babu Naidu played a ‘King Maker’ role at the Centre.

7. *Factions and Defections*

Factionalism, defections, splits, mergers, fragmentation, polarization and so etc., have been important aspects of the functioning of political parties in India. The practice of defections gained greater currency after the fourth General Elections (1967). This phenomenon caused political instability both at the Centre and in the states and led to disintegration of the parties. Thus, there are two Janata Dals, two TDPs, two DMKs, two Communist Parties, two Congress, three Akali Dal, three Muslim Legues and so on.

8. *Lack of Effective Opposition*

An effective Opposition is very essential for the successful operation of the Parliamentary democracy prevalent in India. It checks the autocratic tendencies of the ruling party and provides an alternative government. However, in the last 63 years, an

effective, strong, organized and a viable national Opposition could never emerge except in flashes. The Opposition parties have no unity and very often adopt mutually conflicting positions with respect to the ruling party.

12.9 Major Political Parties

12.9.1 The Indian National Congress Party

The Indian National Congress had been one of the most successful of the nationalist movements of Asia and Africa. After the achievement of independence, it adapted itself to the task of governing the country. It enjoyed two full decades of dominance in independent India. The end of the sixties witnessed the first great split in the Congress Party. In spite of the combined efforts of the Congress (O) and other non-Communist Opposition parties to dislodge the Congress (R) from power, the latter under Smt. Indira Gandhi's leadership came to power with an absolute majority in the elections of 1972. But gradually certain policies of the Congress led to the decline of the popularity of the Congress. In the elections of 1977 to the Parliament, the historic Congress Party, for the first time, had the bitter taste of defeat, and was reduced to the stature of an Opposition party.

The distribution of power in the Congress evolved through three major phases. The distribution is based on the nature of relationship between the Prime Minister and the Congress President and his working committee. The first phase was from 1946 to 1951 which was the period of conflict and transition. This phase ended in the 'Tandon Crisis' when Purushottam Das Tandon, the Congress President, was forced to resign giving way to Nehru's supremacy. The second phase was one of centralization and convergence. During this phase, Nehru first tried to achieve harmony by merging the roles of the Congress President and of the Prime Minister. From 1954 to 1963, the Congress was headed by a series of young leaders who were supervised by senior leaders. The third phase, 1963 to 1967, was again a period of divergence, and a new equilibrium between the Prime Minister and the Congress President was established. During this phase, the Kamaraj Plan of 1963 led to the retirement of some senior Congress leaders from governmental posts.

After the death of Pandit Nehru in May 1964, Lal Bahadur Shastri became the Prime Minister. Later, Smt. Indira Gandhi was elected as Prime Minister, and the two groups emerged in the Congress, one supporting Smt. Indira Gandhi and the other opposing her. In 1967, Smt. Indira Gandhi's candidate, Shri S. Nijalingappa replaced Shri Kamaraj as the Congress President. But subsequently, the latter had an open showdown with Smt. Indira Gandhi's group during the presidential election. Smt. Indira Gandhi worked against the Congress nominee Shri N. Sanjiva Reddi in the name of 'conscience vote'. The result was the great split of

November 1969 in the Congress party. Under the Presidentship of Shri Jagjivan Ram, Congress (R) projected its image as the champion of the down trodden. With the emergence of Bangladesh and the consequent popularity of Smt. Indira Gandhi, the party secured an absolute majority in the 1972 general elections.

In the Sixth General Elections to the Parliament in 1977, the Janata Party which was a unified Opposition swept the Congress Party away from power throughout North India. The Congress Party, for the first time, found itself in the Opposition in the National Parliament. Heart-searching in the Congress ranks led to a section of Congressmen powerfully resisting Smt. Indira Gandhi's comeback as party leader. This section was headed by the Congress President, K. Brahmananda Reddi. But Smt. Indira Gandhi was determined to get back her former position as party leader and groomed the other section of the party under her leadership. On 2 January 1978, Smt. Gandhi formalized the split in the Congress with declaration that Congress under her Presidentship was the real Congress. Her party gained power in the Assembly Elections of 1978 in Andhra Pradesh and Karnataka. In the seventh General Elections of 1980, her party got two-thirds majority in the Lok Sabha. After the assassination of Smt. Indira Gandhi, Rajiv Gandhi became the leader of the Congress (I). The Congress (I) won the general elections in 1985 with a very large majority for the last time. In the Ninth General Elections held in 1989, the Congress could not get absolute majority but still, Congress was the single largest party. In the Tenth General elections of 1991, the Congress Party emerged as the single largest party and again formed the government at Centre.

After independence, for last 15 General Elections, the Congress has won an outright majority on six occasions, and has led the ruling coalition a further four times, heading the Central Government for a total of 49 years. There have been seven Congress Prime Ministers, the first being Jawaharlal Nehru, serving from 1947–64 and the most recent being Manmohan Singh, serving from 2004–14. From 2004–14, the Congress-led United Progressive Alliance (UPA), a coalition of several regional parties, formed the government, headed by Prime Minister Manmohan Singh. In the 16th General Elections held in 2014, the Congress registered its worst performance for the first time in independent India, winning only 44 seats of the 543-member house.

12.9.2 Socialist Party

The origins of the Socialist Party can be traced back to the mass movement stage of the Indian National Congress in the pre-independence era. The Congress Socialist Party (CSP) was formed within the Congress in 1934 by a group of young leaders who wanted a more radical and

egalitarian Congress. In 1948, the Congress amended its Constitution to prevent its members from having dual party membership. This forced the Socialists to form a separate Socialist Party in 1948. The Party's electoral performance caused much disappointment to its supporters. Although the party had presence in most of the states of India, it could achieve electoral success only in a few pockets.

Socialists believed in the ideology of democratic socialism which distinguished them both from the Congress as well as from the Communists. They criticized the Congress for favouring capitalists and landlords and for ignoring the workers and the peasants. But the Socialists faced a dilemma when in 1955 the Congress declared its goal to be the socialist pattern of society. Thus it became difficult for the socialists to present themselves as an effective alternative to the Congress. Some of them, led by Rammanohar Lohia, maintained distance from the Congress Party and criticized it. Some others like Asoka Mehta advocated a limited cooperation with the Congress.

The Socialist Party went through many splits and reunions leading to the formation of many socialist parties. These included the Kisan Mazdoor Praja Party, the Praja Socialist Party and Samyukta Socialist Party. Jayaprakash Narayan, Achyut Patwardhan, Ashok Mehta, Acharya Narendra Dev, Rammanohar Lohia and S.M.Joshi were among the leaders of the socialist parties. Many parties in contemporary India, like the Samajwadi Party, the Rashtriya Janata Dal, Janata Dal (United) and the Janata Dal (Secular) trace their origins to the Socialist Party.

12.9.3 Janata Party

During 1970s, the Janata Party was new on Indian political scene though it consisted of units that hitherto existed individually. The Opposition parties had made an abortive effort during the Fifth General Elections to Parliament in 1972, to pose a unified Opposition to the Congress Party(R). Given this background, the successful unifying process carried on by the Opposition under the label of Janata Party and their subsequent dramatic victory in the Sixth Lok Sabha Elections of 1977, came as a surprise to the nation.

The inception of the Janata Party was not a hurried electoral alliance reached in 1977. As early as the budget session of Parliament in February 1973, except the Communist Party of India (CPI), all Opposition parties had staged a united walk-out from the President's budget speech. Their point was that the Government had failed to implement its programme of 'Garibi Hatao'.

On 2 January, 1974, the CPI (Marxist) and the Jana Sangh unitedly gave a call for Maharashtra Bandh. In Gujarat, Congress (O) and Jana Sangh had joined hands in supporting the

‘Nav Nirmana Samiti’, and in Uttar Pradesh, an election alliance had been established by Bharatiya Kranti Dal with the help of Muslim Majlis and the Samyukta Socialist Parties. Socialist Party leader Jayaprakash Narayan, the Jana Sanghis and some non-CPI leftists had grown strong with mass popularity. The student community in Gujarat had carried on a mass movement against high prices, food shortage and unemployment. In March 1974, the Gujarat Assembly was dissolved. Bihar, too, was up in arms against the government.

On 26 June, 1976 National Emergency was imposed and many of the Opposition leaders were arrested. Imprisonment of Opposition leaders provided them with an opportunity to resolve their differences and forge a united front against the then government. During imprisonment they worked out the plans of the new party. Within a few days after the announcement, in Mid-January 1977, of the national elections in March, the Socialists, the Jana Sangh, the B.L.D. and the Congress (O) had created a unified Janata Party led by Morarji Desai. The architect behind the scenes was the much revered Gandhian Socialist Jayaprakash Narayan, who led the pre-emergency campaign against the Congress government. The second unexpected event was the resignation from the Congress and from the government of Jagjivan Ram, a prominent national figure. He started a campaign against the Congress Party and was joined by a number of prominent leaders in Uttar Pradesh. He finally formed a new party, the Congress for Democracy. Thus, a solid Opposition was set against the Congress. The single issue for the Opposition parties was that the Smt. Indira Gandhi’s continuance was a serious threat to democracy and the Constitution. In the General Elections of 1977, the Janata and its allies, the Akali Dal and the CPI (M) won 328 out of the 542 seats in Parliament. The post-election discussions led to the merger of some parties with the Janata Party and on May 1st, 1977, the Janata Party was formally constituted under the Presidentship of Chandra Shekhar.

12.9.4 Communist Party of India

In the early 1920s communist groups emerged in different parts of India taking inspiration from the Bolshevik Revolution in Russia and advocated that socialism was the solution to problems affecting the country. From 1935, the Communists worked mainly from within the fold of the Indian National Congress. A parting of ways took place in December, 1941, when the Communists decided to support the British in their war against Nazi Germany. Unlike other non-Congress parties the CPI had a well-oiled party machinery and dedicated cadre at the time of independence. However,

independence raised different voices in the party. The basic question that troubled the party was the nature of Indian independence. Soon after independence, the party thought that the transfer of power in 1947 was not true independence and encouraged violent uprisings in Telangana. The Communists failed to generate popular support for their position and were crushed by the armed forces. This forced them to rethink their position. In 1951 the Communist Party abandoned the path of violent revolution and decided to participate in the approaching general elections. In the first general election, Communist Party of India (CPI) won 16 seats and emerged as the largest Opposition Party. The party's support was more concentrated in Andhra Pradesh, West Bengal, Bihar and Kerala.

A.K.Gopalan, S.A.Dange, E.M.S.Namboodiripad, P.C.Joshi, Ajay Ghosh and P.Sundaraiah were among the notable leaders of the CPI. The party went through a major split in 1964 following the ideological differences between Soviet Union and China. The pro-Soviet faction remained as the CPI, while the opponents formed the CPI (Marxist). Both these parties continue to exist to this day.

CPI(M) is organised on the basis of democratic centralism, a principle conceived by Vladimir Lenin which entails democratic and open discussion on policy on the condition of unity in upholding the agreed upon policies. The highest body of the party is the Politburo. During Kerala Legislative Assembly elections of 1965 the party has adopted the name 'Communist Party of India (Marxist)' to obtain its election symbol from the Election Commission of India. The presence of nationalists and internationalists P.Sundaraiah, Jyoti Basu, and Harkishan Singh Surjeet in the Communist Party of India (Marxist) proves this fact. In Sixteenth General Elections, nine CPI (M) candidates and its two supported independents got elected to the Lok Sabha.

During the period 1970-77, CPI got allied with the Congress Party. In Kerala, they formed a government together with Congress, with the CPI-leader C. Achutha Menon as Chief Minister. After the fall of the regime of Indira Gandhi, CPI reoriented itself towards cooperation with CPI (M). Even today, CPI happens to be the only national political party from India to have contested all the general elections using the same electoral symbol. However, after the 2014 General Elections, CPI lost its status as a national party owing to its inability to poll the bare minimum votes or win the minimum number of seats required for the purpose.

12.9.5 Bharatiya Janata Party

The Bharatiya Janata Party (BJP) established in December, 1980 is the new and modified version of the Bharatiya Jana Sangh that was founded on 21st October, 1951, under the Presidentship

of Shyama Prasad Mukherjee. The BJP has points of continuity with the Jana Sangh, in its discipline and well-knit organizational set-up and in its linkage with the traditional Hindu socio-cultural organizations, Rastriya Swayamsevak Sangh (RSS) and the Vishwa Hindu Parishad (VHP). With certain variations in its political perspective and policy orientation it has close affinity with the erstwhile Jana Sangh.

Jana Sangh dissolved itself and became one of the major constituents of the Janata Party on 1st May, 1977. After some time, when the Janata Party had split, former members and leaders of the earlier Jana Sangh along with some others left the Janata Party and formed a party of their own. Now, instead of calling it Jana Sangh, they called it as Bharatiya Janata Party (BJP). The BJP has extended its influence to various parts of South India as well as in Uttar Pradesh, Rajasthan, Gujarat, Madhya Pradesh, Himachal Pradesh and Delhi. Jana Sangh leaders like Atal Behari Vajpayee and L.K. Advani became ministers in the Janata Party cabinet. After the electoral defeat of the party in 1980 Lok Sabha election, most of the erstwhile Jana Sangh members declined to stay on in the Janata Party and formed instead separate Bharatiya Janata Party. This was partly due to the fact that the other members of the Janata were objecting to the practice of the former Jana Sangh members continuing to remain members of the RSS as well. This 'dual membership' controversy continued throughout the phase of Janata government (1977-79) when other constituent parties accused the Jana Sangh members of being members of the RSS.

So when the BJP was formed, the new party while permitting dual membership with the RSS and indeed lauding its role in maintaining the 'Bharatiya Samskriti' and 'maryada', also proclaimed that their ideal is 'Gandhian Socialism', and for its realization they sought inspiration from Gandhiji, Jayaprakash Narayan and Deendayal Upadhyaya. In India the divergence between 'proclamation' and 'performance' is nothing new, indeed it is seen in practically every party. The term socialism has been used in India for decades, by practically all parties with such cheerful indifference to its contests and scientific meaning that in public mind it has come to mean different things to different people. C.E.M. Joad had once said that "Socialism is like a hat that has lost its shape, having been worn by so many different heads".

The BJP like its predecessor the Jana Sangh has a strong electoral support base in the Hindi belt, especially among the small and medium traders and shopkeepers in the urban and the rural areas, among the traditional business community the Vaishyas and Jains, among the masses attuned to the traditional view of politics but also among the middle level professionals and service personnel. Since 1977 particularly, though in some cases even since 1967, it has also extended its influence to pockets in South India, particularly in Kerala, Karnataka and

Andhra Pradesh. The Jana Sangh-BJP popular votes in the Lok Sabha elections have varied from 3.1 per cent in 1952 to 9.4 per cent in 1967. In other elections it has remained between 6 to 7 per cent. In the 1989 elections however, the BJP increased its percentage of votes to 11.56 per cent and obtained 88 seats accounting for 16.41 per cent of the seats in the Lok Sabha. This had been its biggest electoral victory, and it had spread its influence in Madhya Pradesh, Rajasthan, Gujarat, Himachal Pradesh and Delhi.

Although initially unsuccessful, winning only two seats in the 1984 general election, it grew in strength on the back of the Ram Janmabhoomi and Babri Masjid issue. Following victories in several state elections and better performances in national elections, the BJP became the largest party in the Parliament in 1996; however, it lacked a majority in the lower house of Parliament, and its government lasted only 13 days. After the 1998 general election, the BJP-led coalition known as the National Democratic Alliance (NDA) formed a government under Prime Minister Atal Bihari Vajpayee for a year. Following fresh elections, the NDA government, again headed by Vajpayee, lasted for a full term in office; this was the first non-Congress government to do so. In the 2004 general election, the BJP led NDA suffered an unexpected defeat, and for the next ten years the BJP was the principal Opposition party. Long time Gujarat Chief Minister Narendra Modi, a principal campaigner and charismatic leader of the party, led it to a landslide victory in the 2014 general elections. Since that election, Narendra Modi leads the NDA government as Prime Minister with the alliance of 13 states owned parties.

12.9.6 Lok Dal

After the split in the Janata Party the Lok Dal formed the government with the support of Congress (U). However, it could not prove its majority in the Lok Sabha. The Lok Sabha was then dissolved and the government of Shri Charan Singh was asked to continue as a care-taker-government till the new government was formed in January, 1980. The Lok Dal was formed in September 1979 which was separated from the Janata Party. Its programmes accorded highest priority to agriculture, small scale and cottage industry. It had a rural bias in its programmes. The election manifesto of the Lok Dal declared the party's determination to establish a socialist society consistent with maintenance of individual freedom. In 1988, Lok Dal was divided into Lok Dal (Bahuguna) and Lok Dal (Ajit Singh). In December, 1993, Ajit Singh group merged with Congress Party. Sunil Singh, a dynamic youth leader, is the National President of Party and he belongs to a patriotic family. He has been the MLC in Uttar Pradesh State Assembly. He claims to be carrying the political legacy of Charan Singh. The party's official electoral symbol is a farmer ploughing the field.

12.9.7 Janata Dal

The Janata Dal came into existence by merger of the Janata Party, the Jana Morcha and the Lok Dal. It was launched on 11th October, 1988 at the foundation convention at Bangalore. Its predominant support lies in the Hindi heartland and among the minorities. In September, 1989, Janata Dal in collaboration with Telugu Desam Party, the Congress (Socialist), the Asom Gana Parishad, and the Dravida Munnetra Kazhagam constituted National Front and they even formed government at the Centre after the Ninth General Elections to Lok Sabha. However in 1990, there was a split in the Janata Dal. A faction came out of Janata Dal and formed Samajwadi Janata Party.

The National Front coalition that formed the government in 1989 consisted of the Janata Dal and a few smaller parties in the government, and had outside support from the Left Front and the Bharatiya Janata Party with V. P. Singh as its Prime Minister. In November 1990, this coalition collapsed, and a new government headed by Chandra Shekhar under Samajwadi Janata Party (Rashtriya) which had the support of the Congress came to power for a short while. Its second spell of power began in 1996, when the Janata Dal-led United Front coalition came to power, with outside support from the Congress under Sitaram Kesari, choosing H.D. Deve Gowda as their Prime Minister. The Congress withdrew their support in less than a year, hoping to gain power with the support of various United Front constituent groups, and I.K. Gujral became the next Prime Minister. His government too fell in a few months, and in February 1998, the Janata Dal-led coalition lost power to the Bharatiya Janata Party.

12.9.8 Swatantra Party

Swatantra Party was formed in August 1959 after the Nagpur resolution of the Congress which called for land ceilings, take-over of food grain trade by the state and adoption of cooperative farming. The party was led by old Congressmen like C.Rajagopalachari, K.M.Munshi, N.G.Ranga and Minoo Masani. The party stood out from the others in terms of its position on economic issues. In the 1962 general election, the first after its formation, Swatantra Party received 6.8 percent of the total votes and won 18 seats in the third Lok Sabha (1962-67). It emerged as the main Opposition to the dominant Congress in four states, such as Bihar, Rajasthan, Gujarat and Orissa. By the next general election in 1967, Swatantra had become a significant force in some parts of India; it won 8.7 percent of the votes and became the single-largest Opposition party in the fourth Lok Sabha (1967-71) with 44 seats. In 1971, Swatantra joined a “Grand Alliance” of parties from across the political spectrum which aimed to defeat Prime Minister Indira Gandhi. The party secured eight seats, winning only 3% of the votes. The next year, in 1972, its founder Rajagopalachari died,

and Swatantra Party declined rapidly. By 1974, it merged into the Charan Singh-led Bharatiya Krnati Dal, another coalition committed to anti-Congressism.

The Swatantra Party wanted the government to be less and less involved in controlling the economy. It believed that prosperity could come only through individual freedom. It was critical of the development strategy of state intervention in the economy, centralized planning, and the nationalized public sector. It instead favoured expansion of a free private sector. The Swatantra Party was against land ceilings in agriculture, and opposed cooperative farming and state trading. It was also opposed to the progressive tax regime and demanded dismantling of the licensing regime. It was critical of the policy of non-alignment and maintaining friendly relations with the Soviet Union and advocated closer ties with the United States. The Swatantra Party gained strength in different parts of the country by way of merger with numerous regional parties and interests. It attracted the landlords and princes who wanted to protect their land and status that was being threatened by the land reforms legislation. The industrialists and business class who were against nationalization and the licensing policies also supported the party. Its narrow social base and the lack of dedicated cadre of party members did not allow it to build a strong organizational network.

12.9.9 Nationalist Congress Party (NCP)

The Nationalist Congress Party (NCP) is a Centre to Centre left political party primarily based in the states of Maharastra, Kerala and Meghalaya. NCP was formed on 25 May 1999, by Sharad Pawar, P.A.Sangma and Tariq Anwar after they were expelled from the Indian National Congress (INC) on 20th May 1999, for disputing the right of Italian-born Sonia Gandhi to lead the party. At the time of formation, the party also absorbed Indian Congress (Socialist), which traced its origins to anti-coalition partner in the state of Maharashtra in alliance with INC. Sharad Pawar became the President of the NCP and P.A.Sangma and Tariq Anwar were the General Secretaries of the Party. On 20 June 2012, Sangma quit the NCP to contest in presidential polls. The Election Commission of India has recognized the NCP as a National Party. In the history of the country, this was the only party to have attained that status in such a short span of time.

In 13th Lok Sabha elections, the party won eight seats from Maharastra and one seat each from Meghalaya and Manipur. In 14th Lok Sabha elections held in 2004, it again joined in Congress Alliance, later termed as UPA and won 9 seats in the Lok Sabha. Sharad Pawar was the Cbainet Minister in the UPA led Congress Government. In 15th Lok Sabha elections also it won 9 seats and joined the UPA government. In recently held 16th Lok Sabha elections held in 2014, it has won 6 seats from Maharastra, Lakshadweep and Bihar.

12.9.10 Babhujan Samaj Party (BSP)

The Bahujan Samaj Party - a party dominated by Dalits is the outcome of the merger of employees federation and Dalit Shoshit Samaj Samiti. Kanshi Ram was the torch bearer of this party and Mayawati its beacon light. Mayawati has been described as the guiding angel of the BSP and in fact its savior. The Scheduled Castes, Tribes, educationally and socially downtrodden classes, employees and workers of these classes are the members of this party. After the death of its mentor Kanshi Ram, Mayawati has become the savior of the party in all respects.

The BSP has been recognized as a national party in the Indian Political System and its popularity under Mayawati has been gradually on the ascendance. Despite the fact that BSP has been trying to woo the other communities by giving them party tickets yet it is identified as the party of the Dalits. The party has been playing the role of a spoiler to damage the national parties in the elections. In 14th Lok Sabha elections in 2004, the BSP contested in 46 out of 48 seats in Maharashtra. In by-elections, out of 12 seats it could capture two seats. In 15th Lok Sabha elections, it could win only 21 seats, but in 16th Lok Sabha elections held in 2014 it couldn't get even a single seat.

12.10 One Party Dominance

In India, the freedom struggle called for the organization of effective political parties. The Congress arose as an umbrella organization unifying all the anti-British and national elements in the country. After the achievement of independence, it continued to function as a political party, even though Mahatma Gandhi wanted it to remain as a mere social service organization. In the post independence politics of the country, the role of the Congress Party was so great that India was often described as a single dominant party system. The Congress was the party of consensus and its strategy was all inclusive. It was often described as a miniature Indian society which reflected all the essentials in the nation.

Being a movement turned political party; the Congress could contain various groups holding different views on important matters within its gigantic organization. Then, the Congress party was a centrist party with both leftist and rightist politics existing side by side. It had developed a built in corrective mechanism within the party in the sense that the importance of different factions alternated, depending upon the conditions outside the Congress. Traditionally, it was characterized by an overall left-of-Centre position, but it was always sensitive to its internal factions. By facilitating such balance it could make the dissident elements cling to the parent organization.

Political commentators pointed out that the dominance of the Congress was not absolute. Even though the Congress had an overwhelming majority in the Lok Sabha, it never won a majority

of popular votes in any national election. On the other hand, many Opposition Parties, though they had a smaller number of members in the Lok Sabha, had considerable voter-strength behind them. And at the state level, the Congress dominance was still less.

The Opposition in India was essentially an Opposition to the government. The Congress Party being the ruling party, the Opposition was an Opposition to the Congress System. Most of the major political parties originated within the Indian National Congress and these parties include the Socialists and the Communists. Prominent leaders of many of the major Opposition parties were at some time or the other active Congress workers. The Congress System in India has undergone significant change after 1967 when the Congress was weakened at the Centre and formally split in 1969. This was followed by the politics of defection and there emerged phenomenon of coalition-making. In the mid-term elections of 1969, cohesive regional parties as coalitions emerged as an alternative to the Congress in West Bengal and Punjab, while they failed in Uttar Pradesh and Bihar. A realignment of political forces started in 1969. The major split was between the ruling Congress led by Smt. Indira Gandhi and the organization Congress led by a few old congress leaders like Kamaraj Nadar and Morarji Desai.

The first general election was the first big test of democracy in a poor and illiterate country. It was not just the size of the country and the electorate that made this first general election unusual. The elections had to be postponed twice and finally held from October, 1951 to February 1952. When the results were declared these were accepted as fair even by the losers. Observers outside India were equally impressed. India's general election of 1952 became a landmark in the history of democracy all over the world. The Indian National Congress Party was expected to win this election. The Congress Party, as it was popularly known, had inherited the legacy of the national movement. When the final results were declared, the extent of the victory of the Congress did surprise many. The party won 364 of the 489 seats in the first Lok Sabha and finished way ahead of any other challenger. The Communist Party of India that came next in terms of seats won only 16 seats. So, the party ruled all over the country at the national and the state level.

In the second and third general elections, held in 1957 and 1962 respectively, the Congress maintained the same position in the Lok Sabha by winning three-fourth of the seats. None of the Opposition Parties could win even one-tenth of the number of seats won by the Congress. In the state assembly elections, the Congress did not get majority in a few cases. The most significant of these cases was in Kerala in 1957 when a coalition led by the CPI formed the government.

The Indian Party System has shown a trend towards polarization, when a few Opposition Parties at the national level tried to pose a united Opposition to the ruling Congress, in the 1971-72 elections. This grand alliance was a watershed in our party system though it failed to dislodge Congress in the elections. The Congress re-emerged more powerfully under the leadership of Smt. Indira Gandhi. India again leaned back on the comfortable but oversimplified single-party-dominant system. But it was only short-lived.

The policies of the Congress Party, especially during 1975-77, brought forth a tide of Opposition from the Opposition Parties in particular, and the people in general. In the Sixth General Elections in 1977, the Opposition parties under the name of Janata Party could unitedly and successfully overthrow the Congress from power. The anti-Congress wave in the country brought about spectacular changes in the Indian party system in 1977. However, the Janata Party could not evolve itself into a cohesive and united organization. Its internal differences came to the fore within a short period of time and the Lok Dal separated itself from the Janata Party. Mainly due to this sad experience the people again voted Smt. Indira Gandhi's Congress back to power with two-thirds majority in the seventh General Elections of 1980. Internal wrangling in the Janata Party led to a split and some elements belonging to the former Bharatiya Lok Dal and the Socialist Party severed their relations with the Janata Party. Since no political party had a clear majority in the Lok Sabha, the President of India took a decision to dissolve the House. Subsequently, the seventh General Elections were held in January, 1980 and Smt. Indira Gandhi came to power again with thumping majority.

On the assassination of Smt. Indira Gandhi in October 1984, her son Rajiv Gandhi became Prime Minister. In December, Rajiv Gandhi led the Congress Party to an overwhelming victory in which it secured 401 seats in the Lok Sabha. Although the Congress Party remained the largest party in Parliament in 1989, Rajiv Gandhi was unseated as prime minister by a coalition of Opposition parties. After the assassination of Rajiv Gandhi, P.V. Narasimha Rao succeeded as party leader and was elected prime minister in June 1991. By 1996 the party's image was suffering from various reports of corruption, and in elections that year the Congress Party was reduced to 140 seats, its lowest number in the Lok Sabha to that point, becoming Parliament's second largest party.

The United Front government - a coalition of 13 parties, came to power as a minority government with the support of the Congress Party. However, as the largest single party in Opposition in Parliament after the Bharatiya Janata Party (BJP), the Congress Party was vital in both making and defeating the United Front. In November 1997 the Congress Party withdrew its support for the United Front, prompting elections in February 1998.

Despite aggressive campaigning by the leaders of the Congress Party, the party suffered the worse electoral performance than it had in 1996 and 1998, winning only 114 seats. Nevertheless, in the 2004 national elections the party scored a surprising victory and returned to power. Sonia Gandhi, however, declined an invitation to become prime minister and instead supported Manmohan Singh, a former Finance Minister, who in May 2004 became the country's first Sikh Prime Minister. The party again surprised pundits in the 2009 Parliamentary elections by increasing its number of seats in the Lok Sabha from 153 to 206, its best showing since 1991. In the 2014 Lok Sabha polling, however, the party had lost much of its popular support, and secured only 44 seats in Lok Sabha.

In this system of elections, that has been adopted in our country, the party that gets more votes than others tends to get much more than its proportional share. That is exactly what worked in favour of the Congress. If we add up the votes of all the non-Congress candidates it was more than the votes of the Congress. So the Congress was still way ahead of the Opposition and managed to win. Another major plank in the party system in India is the fact that there has always existed a minority who doubted the viability of the British Parliamentary institutions. This minority felt, and still feels, that those institutions are incompatible with Indian conditions. This section is inspired by two influential Gandhians, Acharya Vinoba Bhave and Shri Jaya Prakash Narayan. They look upon parties as undesirable organizations and advocate partyless democracy. Our experience with political parties in India has not always been a very happy one. But the fact remains that political parties have prominent features of Indian political life. They reflect political changes in the country and facilitate democratic changes within the system.

12.11 Major Regional Political Parties in India

The emergence of regional parties in India has a geo-political rationale. India is a continental polity. In Europe, for India's size, there more than 30 sovereign states. With the exception of Soviet Union, no territorial sovereignty has had to blend such a wide range of socio-cultural and ethnic diversities into political integration, as India. Under conditions of democratic culture, these diversities are bound to, and indeed did aspire for political autonomy. One way of expression of political autonomy in a federation is the formation of regional parties and groups, in order to bargain with the Centre for a better deal for regional development.

Experience has shown that almost all national parties had neglected to give adequate importance to their regional and state units. Over the years there had been discontent expressed by state leadership against the oversight or lack of democratic propriety shown to them. Because Congress has been the major all-India party its lapses has been more known than those of other

parties. In the first two decades of Independence, the Congress Party remained in power in the Centre, and in most of the states. In a way its continuous hegemony in the Centre, led to the neglect of the sentiments of the states. The Congress Party increasingly treated its state units, not as autonomous units, but as subordinate branches of the central Congress Party. The Congress could not evolve a framework of democratic de-centralization in its party organization and in relations between the central 'high-command and All India Congress Committee (AICC), the highest decision-making body in the party, and its state units. With the death, removal, or resignation of senior state leaders, who had played a conspicuous role in the national movement for independence, their successors could never establish positive equations with the central leaders. This led to a simmering discontent not only within the ranks of the state units of the Congress but also in their support-base and among the people of the state at large. The control of state affairs by the central leadership-for instance in matters of distribution of tickets at election time, formation of ministries, selection of Chief Minister, state planning priorities, location of industries etc., and their style of working and public behavior towards state leaders, were often arbitrary and not quite democratic. It offended sensitivities of state leaders and rank and file. They complained that their 'atma gauravam' (self respect) and 'maryada' (dignity) was hurt. In this situation, it was not too difficult for an alternative political format to emerge in the shape of regional parties.

12.12 Types of Regional Political Parties

There have been three types of regional parties in India.

- 1) For years the Congress dissidents, off and on, formed several regional parties and groups, mostly short-lived and often for an ad-hoc purpose as a bargaining counter. Bangla Congress, Kerala Congress, Utkal Congress, Vishal Haryana Parishad and the Telangana Praja Samiti.
- 2) The second type is tribal parties as focal points of building a tribal political identity and as platform for obtaining more concessions from the Centre. They Naga National Council (NNC) established in 1946, Mizoram National Front formed in 1961, Garo National Council, Manipur etc. The Jharkhand Party has been in existence almost since independence, representing five major tribes in Bihar. It has been demanding a separate state within India. The Gorkha League in Darjeeling area of West Bengal, has slowly developed into a well-knit organization and it has acquired an administrative forum for the settlement of its demand for Gorkha autonomy.

- 3) The third type of regional parties is larger political formations in ethnically, culturally and linguistically defined regions like Tamil Nadu, Andhra Pradesh, Punjab, Jammu and Kashmir and Assam. These parties are bigger in their composition, well-knit in their organization, and more stable in their role as important components of the multi-party system in India. Because of their electoral majority in the state assemblies, they also have the capacity to send their members to the Lok Sabha and the Rajya Sabha, and play a critical role as balancing factor between the ruling party and the major Opposition parties in the Parliament. After the 1984 elections for instance, the Telugu Desam Party (TDP) became the largest party in the Lok Sabha, and an important party in the Rajya Sabha. For years the DMK and AIADMK members had been a factor of consequence in the Parliament. The Asom Gana Parishad (AGP) represents a cross-section of the Assamese people and follows a policy of progressive development. In this context, it is worthwhile to analyse and examine the rise of varied regional parties in India such as DMK, AIADMK, TDP, TRS, National Conference etc.

12.12.1 Dravida Munnetra Kazhagam (DMK)

Forty years before the independence and even forty years later, the most powerful and deep rooted regional movement in the history of modern India remains the Dravidian Movement for autonomy and democratic identity. In these eight decades it has taken many forms and passed through the phases of splits and fragmentations, of consensus-building and coalitional politics, of militant cry for secession from India and of moderate demand for greater autonomy within the Indian Union. Its influence has waxed and waned. It has had movements of high tide and low tide, but its tumultuous waters have never ceased to wash the shores of Tamilian consciousness.

New awakening as a result of western education, promoted ethnic consciousness and a desire for social change. In 1925 mass based self-respect movement was initiated by a fire-brand atheist belonging to the backward caste E.V.Ramaswamy Naicker, popularly known as Periyar. This was a both a movement of social reform and political Opposition to Brahmin hegemony. It equated Brahmanism with centuries of exploitation and with north Indian domination. Its caste orientation was expressed in rousing non-Brahmin backward castes against the Brahmin preponderance in all sectors of life, and its class orientation was revealed in its attempt to mobilize the lower castes for clear class goals like better education, more employment, greater political power, and above all equality of opportunity and status in society. This had an electrifying effect on the masses.

In 1944, the Justice Party which emerged in 1925 and the self-respect movement merged together to form Dravida Kazhagam (DK) under the leadership of E.V.Ramaswami Nayakar. It took a militant character and resorted to direct action tactics. It over-reached itself first in indicating Brahmins as the main enemy of all progress, and then by identifying the Congress and the national movement, with north Indian brahmanic design of domination. The party painted Brahminism as a symbol of exploitation and the Brahmins as the prime exploiters. In this passionate irrationality they opposed not only the national movement, but also the independence of India. With this drift, a schism occurred in the ranks. In 1949 C.N.Annadurai, with like-minded young leaders, broke away with a huge chunk of more than three-fourths of the members, and leading activists, and formed the Dravida Munnetra Kazhagam (DMK).

The DMK concentrated in building a Tamil identity, and played the original anti-brahmin stance. It depended on the support of the lower middle class, youth and students, and backward castes like Nadars, the Maravars and the Adi-Dravidas. The DMK has not only been a movement for Tamil identity, it also became an effective political party with skilful manipulation of votes at the election time. In 1962, it changed its focus from the earlier demand of a state of separate Dravidisthan, to the problem of economic amelioration of the people. Afterwards, the DMK has taken an active part in the electoral process and in the legislature in the state of Tamil Nadu.

12.12.2 All India Anna DMK (AIADMK)

The internal factional conflicts began in DMK Party weakened its unity and led to the tussle for leadership after the death of Annadurai in 1969. Within a year, the irreconcilable personal differences between Karunanidhi, the new party president and a powerful journalist, and M.G.Ramachandran, the party treasurer and one of the most popular Tamil film heroes, led to a vertical split, resulting in the formation of Anna-DMK (ADMK- later renamed as All India Anna Dravid Munnetra Khazagham, AIADMK) in October, 1972. By 1974, M.G.Ramachandran, the first celluloid personality in India to enter politics in a big way, emerged as the winning leader in the sixth general election, 1977. After M.G. Ramachandran's death in 1988, the party equations again changed. The DMK has once again become the ruling party, consequent on the split and division in the rank of the AIADMK, i.e., between Janaki Ramachandran, wife of M.G.Ramachandran and Kum.Jayalalitha, a strong follower of M.G.Ramachandran. In ideological perspective and programme both the parties are variations on the same theme. In view of the above circumstances, the DMK and the AIADMK are the main rivals in Tamil Nadu even today. At present, in recent 2014 elections, AIADMK has won the peoples mandate and Jayalalitha became the Chief Minister of Tamil Nadu.

12.2.3 National Conference

The party originated in the light of freedom movement in Jammu & Kashmir during the year 1927. Initially it was known as State People's Conference and subsequently, it was christened as National Conference during 1930s under Sheikh Abdullah as its architect and founder leader. It led a movement against Maharaja of Kashmir against his autocratic rule. It is interesting to note that the National Congress supported Sheikh Abdullah for his democratic and secular bent of mind rule and condemned the Maharaja Hari Singh for the act of imprisonment. Subsequently, by 1952 the Maharaja signed the Instrument of Succession in favour of Indian Government for the merger of Jammu & Kashmir into the Indian Union. As a result a popular government was formed under Sheikh Abdullah. The National Conference resolved to make Jammu and Kashmir a part of India subject to condition that its distinct identity is maintained through a separate Constitutional status. Thus, the Constitution of Jammu & Kashmir was evolved which came into effect from January 26, 1957 suitably modifying Article 370 of Indian Constitution.

After the death of Sheikh Abdullah his son Dr. Farooq Abdullah succeeded as Chief Minister. The National Conference as was the case with other Indian parties was marked by factions and splits, one was led by G.M. Shah the son-in-law of Sheikh Abdullah and the other was led by Dr. Farooq Abdullah. It was a house divided and the leadership of the state was marked by a process of musical chair in which the Central Government sometimes supported G.M. Shah and at other times extended support to Farooq Abdullah. Many times Farooq Abdullah formed the governments with the blessings of Congress Party, while out of office he joined hands with other regional parties and projected anti-Congress postures. This attitude of National Conference amply demonstrates the pragmatism of Dr. Farooq Abdullah to be content with maintaining his leadership at the state level.

12.12.4 Telugu Desam Party (TDP)

Since independence, for almost three and half decades, spanning seven general elections, the Andhra Pradesh Legislative Assembly remained dominated by the Congress Party. Even in 1967, the leanest year for the Congress everywhere, Andhra Pradesh remained its bastion in the South India. But suddenly tables turned in 1983, when the newly formed Telugu Desam Party under the leadership of matinee idol N.T. Rama Rao trounced the already dejected, divided and faction ridden Congress at the polls. The meteoric rise of the TDP in Andhra Pradesh was due to many factors. The Andhra Pradesh Congress had lost its credibility due to many factors like the mismanagement of state economy, price rise and inflation, unchecked

unemployment, and increasing suspicion of rampant corruption from top to bottom. Together with these, there appeared a leadership vacuum, due to a quick succession of chief ministers, and the public formed the impression that the chief ministers and the cabinet were mere puppets at the hands of the Congress high-command, and incapable of protecting and representing state's interests at the national level. The hurt pride and injured dignity of the Andhra people, was one of the reasons on which the Telugu Desam party's electoral campaign focused.

Not only did the TDP capture the majority of seats in the Assembly, but also had its representatives elected to the Lok Sabha and the Rajya Sabha. In fact in the Lok Sabha, it emerged as the single largest Opposition party in 1984, with more members than the other all-India parties. N.T.Rama Rao took initiatives to hold periodic Opposition conclaves, and played consummate role in rallying anti-Congress alliance. The TDP organization is quite well-knit and it has penetrated deep into the villages of the state. At the grass-root level the party gained considerable electoral support.

Presently, the chairperson of the Telugu Desam Party is Nara Chandrababu Naidu, who took over the party from NTR, in 1995. The TDP has formed the government in Andhra Pradesh twice, from 1983-1989 and from 1994 to 2004.

The TDP's electoral fortunes in 2004 declined as the party was confronted with several issues that affected its political prospects. Notable among those was a growing demand that a Telangana state, be created out of a portion of Andhra Pradesh. The emergence of smaller parties such as Praja Rajyam (which later merged with the Congress Party) and the Yuva Jana Sramika Rythu Congress Party also helped to erode the TDP's traditional support base in the coastal districts of the state. In 2004 Lok Sabha elections, however, when the party managed to win only five seats, it severed its ties with the NDA and joined the so-called "Third Front" of leftist parties against Congress and the BJP. In the 2009 Parliamentary polling the party increased its seat total to six. In the Andhra Pradesh general elections, 2004 and 2009 the Congress Party captured the power. The Telugu Desam Party gained a few more assembly seats in 2009 elections than the 2004 election. In 14th Assembly General Elections held in 2014, the Telugu Desam Party under the leadership of Nara Chandra Babu Naidu got 102 seats out of 174 Seats and formed the government. Sri N.Chandrababu Naidu became the first Chief Minister of bifurcated Andhra Pradesh in 2014.

12.12.5 Telangana Rashtra Samiti (TRS Party)

Telangana statehood struggle is one of the longest peoples' movements in the country. The six decade struggle, which began in early 1950s, has reached its goal in February 2014.

The first statehood movement of 1950s led to the States Reorganization Commission recommending the Telangana state (then called Hyderabad State) in 1955 itself. Due to the political conditions that prevailed in Telangana then it had merged with Andhra state to form Andhra Pradesh State in November 1956. In May 1971, Telangana Praja Samithi headed by Marri Chenna Reddy won 10 of the 14 Parliament seats in Telangana region. But, very soon, Chenna Reddy merged his party with Congress Party.

While the statehood aspirations were alive in people it took sometime before they found the right platform to intensify the agitation. In mid 1990s, several peoples' organizations started organizing meetings on the statehood issue. Kalvakuntla Chandrashekar Rao (KCR), who was then the Deputy Speaker of AP State assembly, had started background work on Telangana issue in early 2000. On 17th May, 2001, K.Chandra Sekhara Rao announced the launch of Telangana Rashtra Samithi party. Prof. Jayashankar, the ideologue of statehood movement extended his support to K.Chandra Sekhara Rao. In the 2004 assembly elections, the TRS formed an alliance with Indian National Congress and won 26 state assembly seats and also won 5 Parliament seats at the national level. It joined the governments at both state and central level. In September 2006 the party withdrew support for the Central Government on the grounds of indecision by the government over the delivery of its electoral promise to create Telangana. The question that arises is that, how can a party with an adhering alliance with the Indian National Congress contest in elections and then break the bonding within a short span of 6 months.

The party repeatedly assured the people of Telangana that the formation of the new state was on the cards and could happen 'any moment.' When the Central government failed to deliver Telangana, the party withdrew support to the government. On 13 September 2006, K.Chandra Sekhara Rao triggered a by-election in his Lok Sabha constituency of Karimnagar, claiming provocation from one of the Congress MLAs. He won the subsequent by-election with a strong majority.

All TRS MLAs and MPs resigned their positions in April 2008 when the Central government did not meet their demand for a separate state in its latest budget session during its term. The by-election was held on May 29, 2008. In the by-elections of 2008, TRS won 7 out of the 16 assembly segments and 2 out of the 4 Lok Sabha segments, a significant defeat for the TRS party. TRS chief K. Chandrasekhar Rao offered to resign after he lost a number of seats in by-elections but was convinced to remain in office.

On Nov 29th, 2009, K.Chandra Sekhara Rao had announced an indefinite hunger strike demanding statehood to Telangana. The movement spread like wildfire with students,

employees, peoples' organizations plunging into it. In the next 10 days, the whole of Telangana region came to a standstill. As K.Chandra Sekhara Rao's health was deteriorating very fast on December 9th 2009, the UPA government announced that the process of statehood for Telangana would be initiated. But within two weeks, the UPA backtrack on this issue. K.Chandra Sekhara Rao then brought all political forces in Telangana region together to form the Telangana JAC – an umbrella body of several organizations and parties under the chairmanship of Prof.Kodandaram. TRS cadre and leaders actively participated in several agitations and protests launched by Telangana Jont Action Committee (TJAC). After four years of peaceful and powerful protests, the UPA government started the statehood process in July 2013 and concluded by passing the statehood bill in both Houses of Parliament in February 2014. After the separate statehood of Telangana, in 2014 general elections of the state, TRS party won the majority of seats and formed the government headed by K.Chandra Sekhara Rao as its first Chief Minister.

12.13 Significance of Regional Political Parties in Indian Politics

Most regional parties have come to stay, as important political formations enjoining sizable electoral support. In India's federal democratic polity, regional and local parties would continue to have relevance and appeal, especially for certain dominant social and economic interests. Many of these parties in effect have a characteristic similar to pressure and interest groups, both in their size and role in political party. Their influence waxes and wanes in the context of national parties. Several regional parties became coalitional partners of national parties in forming state governments. Some regional parties, however, remain stable and major political formations in few states. The growing presence of regional parties is, undoubtedly, the most outstanding aspect of political development in India over the past few years.

Till 1967, there was only one party ruling the nation that was 'Congress Party'; but after 1967 a lot of other political parties came to the forefront along with power and started to play an imperative and persuasive role in government. With the regional parties coming to the forefront the development of the state's responsibility has gone to the regional parties as opposed to the Central Government taking care in the initial stages. Regional parties are playing a major role in influencing decisions and thought process in the government planning process and decisions. The occurrence of increasing number of regional parties has signified the various segmental personalities and interests. It has resulted in a huge gamut of culture and sub culture, caste and sub castes, philological and sub philological combinations and amalgamations on India's political background.

Commenting upon the role of regional parties in the Indian politics, Dr.K.R.Bombwall identifies several distinct dimensions of the growing role in politics in India.

1. Regional parties have posed the most powerful challenge to India's 'One Party Dominance system'.
2. The regional parties have made a strong impact on the nature and course of Centre-State relations. The state leaders tried to become more and more vocal in their dealings with the Centre government and the Centre began becoming more responsive to the needs and demands of regional actors.

3. The regional parties made politics more competitive and popular participation in the political process more extensive at the grass root.
4. Another advantage of regional parties is that it is easy for the native people to approach a local political party leader rather than approaching higher officials in the national party.

After 1996, several regional parties have been emerging as key players in national politics in India. As partners of the NDA, 23 regional parties shared power at the Centre during 1999 and 2004. Some of the regional parties are ruling the states – AIADMK, TDP, JDU, BJD, UDF, NCP, SAD etc. All this reflects the continued and continuously growing importance of regional parties in the Indian politics. Emergence and growing number and popularity of regional parties have helped in the emergence of new thinking which admits a positive role that regional parties can play in the process of nation-building and in the realization of the often quoted principle of unity in diversity.

During 1999 to 2004 the BJP, and several regional parties shared power at the Centre as constituents of the BJP led National Democratic Alliance (NDA). Later, the Congress led UPA was in power and in it along with Congress, several regional and local parties shared the power. The present BJP led NDA government is also a coalition government supported by several regional and local parties including Telugu Desam Party.

Regional politics play an important role in Indian Politics. They are also equally involved and responsible to form the policies not only for the nation but also for the state. The regional parties should genuinely concentrate on improving the prospects and living conditions of the local people and try to give them better facilities for their basic living. Regional parties continue to favour the objective of more state autonomy but at the same time they now realize better the importance of participation in government making and policy making at the national level. However, there is a possible danger of regionalization of decision making at the national level. There is every need to guard against the development in the direction of excessive regionalization in Indian politics. In no case this should be permitted to adversely affect India's policy decisions, particularly, foreign policy decisions.

Summary

Political parties are the bedrock of any democratic system. Apart from giving political education they also create political awareness among the people. The political parties are essential actors in a democratic political system as they form the governments and the opposition in the legislature. In India we have multi-party system.

In any political system, irrespective of its nature, parties are not part of the formal arrangement of a government, but they are essential elements to form the government. In general sense, Political Parties are organized groups to control the government through shared interest, by replacing some of its members in public office. These parties are classified on the basis of their ideology, organization and structure. In India, politics is dominated by several national and regional parties. Of them, the Indian National Congress has been the most dominant one. For the last two and half decades, no party could get the required majority, since then the coalition era has been continuing in India. At present, BJP led NDA Government is also a group of coalition. The composition of parties in Lok Sabha over the years reveals on the one hand, the multi-party system and on the other, the dominant position of the Congress Party.

In this coalition politics, the Regional Parties are playing a decisive role in Indian Political System. Several regional parties became coalitional partners of national parties in forming governments at Centre. The growing presence of regional parties is, undoubtedly, the most outstanding aspect of political development in India over the past decades. By reading this chapter, a student can understand the concept of political system, political parties, regional political parties, the significance of regional parties etc. This chapter enables the students to understand the nature of Indian Political System, Major National and Regional Political Parties, the dominant role played by the regional parties like National Conference, DMK, AIADMK, TDP etc.

QUESTIONS

I. Long Answer Questions

1. Write an essay on the major National Political Parties in India.
2. Explain the various types of Parties and estimate the role of Regional Parties in India.
3. Write an essay on 'One-Party Dominance' in India.

II. Short Answer Questions

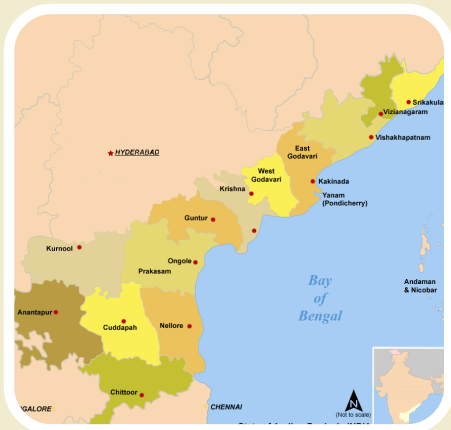
1. What is Political Party? Explain its characteristics and functions.
2. What do you know about Party System? Give a note on types of Party System.
3. Write briefly the characteristics of Indian Party System.
4. Write a note on Congress Party in India.
5. Explain briefly about Bharatiya Janata Party.
6. Estimate the significance of Regional Parties in India.
7. Write a note on Telugu Desam Party in Andhra Pradesh.
8. Estimate the conditions helped for the emergence of Telangana Rastriya Samiti

Party.

III. Very Short Answer Questions

1. Functions of a Political Party
2. Types of Party System
3. National Parties
4. Regional Parties
5. DMK
6. AIADMK
7. One Party Dominance
8. Multi-Party System
9. Bahujana Samaj Party
10. Nationalist Congress Party

CHAPTER 13



Recent Developments in Andhra Pradesh and India

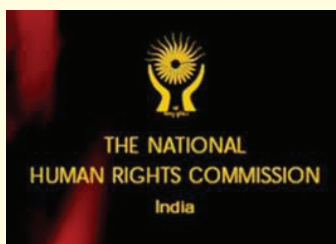
- 13.0 Introduction
- 13.1 Re-organization of States
- 13.2 The birth of Andhra State
- 13.3 Emergence of Andhra Pradesh
- 13.4 Political crisis in 1969 and 1972
- 13.5 Bifurcation of Andhra Pradesh
- 13.6 National Human Rights Commission
- 13.7 State Human Rights Commissions
- 13.8 Right to Information Act, 2005
- Summary
- Questions

13.0 Introduction

As a student of civics, you are aware that the term ‘State’ denotes a political entity i.e, independent from outside control. In this sense, India, Pakistan, Bangladesh, Nepal, Sri Lanka and Bhutan are ‘States’. But, from a common man’s perspective, it refers to political subdivision within the State. For example, Andhra Pradesh, Telangana, Karnataka, Uttar Pradesh, Bihar are states within India. In British-India, the term ‘province’ was used to refer to the present day political sub divisions.

In this chapter, we will examine the circumstances that lead to the reorganization of states in India and the formation of ‘Andhra state,’ subsequently, the Andhra Pradesh state and the bifurcation of the state into Telangana and the residual Andhra Pradesh state.

The earliest mention of Andhras is said to be in Aitereya Brahmana (2000 BC). It indicates that Andhras, originally, living in North India migrated to the south of Vindhyas. Regular history of Andhra Desa, according to historians, begins with 236BC, the year of Ashoka’s death. During the subsequent centuries, Satavahanas, Sakas, Ikshuvakas, Eastern Chalukyas,



and Kakatiyas ruled the Telugu country. Other dynasties that ruled over the area in succession were the kingdoms of Vijayanagar and Qutub Shahi followed by Mir Qumruddin and his successors, known as the Nizams. Gradually, from the 17th century onwards, the British government annexed territories of the Nizam and constituted the Province of Madras.

13.1 Reorganization of States

After independence, reorganization of the states was done on the basis of language as a major aspect of national consolidation and integration in India. The boundaries of provinces in pre-independence India, before 1947, were drawn by the British administration and they had existed for nearly a hundred years. No efforts were made for linguistic or cultural cohesion as most of the provinces were multi-lingual and multi-cultural. The case for linguistic states as administrative units was very strong in those days. Language is closely related to the culture and customs of people. As the reorganization of states was a prominent demand in South India, a Committee was set up by the Indian Congress. It comprised Congress trio Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramaiah, (popularly known as JVP Committee). It submitted its report on April 1st, 1949. The committee was endorsed what the S.K.Dar Commission had said in its report in December, 1948. The Dar Commission clearly stated that new states should not be formed on linguistic basis.

The Indian Congress in its Jaipur Session of 1948 resolved to re-examine the formation of new states. In the same voice it said it was not possible to create a separate state for Telugu speaking people. This stance led to the wide spread movement and violence among Telugu-speaking people of the composite Madras State. The highlight of this movement was the death of Potti Sriramulu after his 56 day hunger strike on December 15, 1952. When the situation got out of hands Pandit Nehru, the first Prime Minister of India, in December, 1953 bowing to the nationwide pressure announced the formation of States Reorganization Commission headed by Fazl Ali and Sardar K.M.Pannikar and Hrudaya Nath Kunzru as members. This Commission considered the demand for separate states and submitted its report in October, 1955. It recommended for the abolition of A,B,C,D category of states as enshrined in the Constitution.

The Commission, however, opposed to the splitting of Bombay and Punjab states. Despite the strong reaction to the report in many parts of the country, the States Reorganization Commission's recommendations were accepted with certain modifications. Subsequently the Union Parliament passed the States Reorganization Act in November, 1956 creating 14 states and 5 Union Territories. Andhra Pradesh was the first state formed on linguistic basis in India. The Telangana area of Hyderabad State was transferred to Andhra Pradesh. The Malabar

district of the old Madras Presidency was merged with Travancore-Cochin for forming Kerala state. Certain Kannada-speaking areas of the states of Bombay, Madras, Hyderabad and Coorg were added to the Mysore state. It was declared that the boundaries of the states must be redrawn on linguistic basis and due consideration must be given for administrative and economic factors.

After 1960, several new states emerged in the Indian Union. Gujarat and Maharashtra emerged as new states in 1960. Later, Goa was liberated in 1961. In 1963, Nagaland emerged as a state separating from Assam. Meghalaya was carved out of the same state in 1966. Similarly, Himachal Pradesh, Manipur and Tripura were born in 1971. Sikkim and Arunachal Pradesh became fullfledged states in 1975. Under the NDA regime Jharkhand, Uttarakhand and Chhattisgarh emerged as separate states on November 1, 2000. Telangana State was carved out born in 2014 under the UPA government from Andhra Pradesh after 13 years of struggle by people of Telangana.

13.2 The Birth of Andhra State

The Andhras have been struggling for the formation of a separate Andhra province since the period of British. But they could not succeed. When India attained Independence, Andhras hoped that their long cherished desire would be realized soon. In spite of several renewed efforts put forth by Andhra leaders, Prime Minister Jawaharlal Nehru and Deputy Prime Minister Sardar Vallabhai Patel did not respond favourably. The Dar Commission appointed by the Government of India did not favour the creation of states on linguistic basis. It created an adverse atmosphere in Andhra region. An unofficial Committee consisting of Jawaharlal Nehru, Vallabh Bhai Patel and Pattabhi Sitaramayya (JVP Committee) was constituted by the Indian National Congress. While the said committee did not favour the creation of linguistic provinces, it suggested that Andhra province could be formed provided the Andhras gave up their claim to the city of Madras. The report provoked violent reaction in Andhra as the Telugus were not prepared to forego their claims to the city of Madras (now Chennai). Swami Sitaram (Gollapudi Sitaram Sastri), a Gandhian follower under took fast unto death (1951) in support of the Andhra state formation. He gave it up subsequently on the advice of Vinobha Bhave. At this juncture, Potti Sriramulu another Gandhian follower began his fast unto death on October, 19th 1952 demanding the creation of Andhra state. He attained martyrdom on November, 15th 1952. His death rocked into a violent and devastating agitation. Immediately Prime Minister Nehru announced in the Lok Sabha (December, 19th 1952), that Andhra state would be formed with eleven undisputed Telugu districts and three Talukas of Bellary district, but excluding

Madras city. On October, 1st 1953, Andhra state came into existence. Kurnool became the capital of the new state, under the terms of the Sri Bagh Pact of 1937 between the leaders of coastal Andhra and Rayalaseema. Andhra State was inaugurated by Nehru, with Tanguturi Prakasam as the first Chief Minister. The forty year old dream of the Telugus to have a separate state was partly fulfilled. Later they looked forward to the formation of Visalandhra with Hyderabad city as capital.

13.3 Emergence of Andhra Pradesh

The creation of Andhra State in October, 1953 strengthened the general demand for linguistic states. Andhras had also a long cherished demand for Visalandhra, since the people of the Hyderabad state were unanimous in their demand for the bifurcation of their state. The States Reorganization Commission (SRC) with Syed Fazl Ali as the Chairman, setup by the union Government in December 1953, was convinced of the advantages of Visalandra. However, it favoured the formation of separate state for Telangana. The report of the SRC led to an intensive lobbying both by the advocates of Telangana as well as of Visalandra. Burgula Ramakrishna Rao Chief Minister of Hyderabad State was against the merger of Telangana region with Andhra State. The Congress high command succumbed to the pressure of Andhra leaders and agreed for Visalandhra. To allay the fears of Telangana people, Gentleman's Agreement was signed by the leaders of Andhra and Telangana. One of the main provisions of the agreement was the creation of a 'Regional Council' for Telangana for its all-round development. The enlarged state by merging nine telugu speaking states of Hyderabad state into Andhra State with its eleven districts, totaling 20 districts was named 'Andhra Pradesh' with the capital at Hyderabad. It was inaugurated on November 1, 1956 by Jawaharlal Nehru, the first Prime Minister of India. Neelam Sanjeeva Reddy became the first Chief Minister of Andhra Pradesh. Three more districts were added later and by 1979, Andhra Pradesh had 23 districts.

13.4 Political Crisis in 1969 and 1972

During the years 1969 and 1972, Andhra Pradesh was rocked by two political agitations popularly known as the 'Telangana' and the 'Jai Andhra' movements, respectively. Telangana agitation (1969) was started by the people of the region when they felt that the Andhra leaders had flouted the Gentleman's Agreement which facilitated the formation of Andhra Pradesh. In the beginning, the movement demanded for implementation of the safeguards agreed upon earlier, but later it wanted the separation of Telangana from Andhra Pradesh. Jai Andhra movement (1972) was a sequel to the Telangana agitation which demanded only 'Mulki',

should be appointed to the posts in Telangana including Hyderabad city. The ‘Mulki’ issue had a long history behind it. As early as in 1969, the Nizam State of Hyderabad issued a farman laying down that only ‘Mulkis’ are eligible for public appointments in the state. ‘Mulki’ was defined as one who was born in the State of Hyderabad or resided there continuously for fifteen years and had given an affidavit that he or she has abandoned the idea of returning to his or her native place. Even after the formation of Andhra Pradesh, the Mulki rules continued to be in force in the Telangana region. As these rules stood in the way of the people of Andhra region to compete for the posts, their validity was challenged in the High Court. The High Court struck down Mulki rules. On an appeal by the state government, the Supreme Court declared that the Mulki rules were valid and were in force. The judgement created a great political crisis in the state. The people of Andhra region felt that they were reduced to the status of second class citizens in their own state capital. They have an agitation demanding separation of Andhra region from Andhra Pradesh.

As the agitation continued, Presidents Rule was imposed in the state (1973) and a political settlement was arrived at with the initiative from the Central Government. A ‘Six-Point formula’ was agreed upon by the leaders of two regions to prevent any recurrence of such agitations in future. It included, among others the following two points.

1. The abolition of Mulki rules and the Telangana Regional Committee
2. The establishment of a Central University at Hyderabad to augment educational facilities.

13.5 Bifurcation of Andhra Pradesh

The movement for separate Telangana state was revived with the creation of Chattisgarh, Jharkhand and Uttarakhand in 2000. This time, the political movement was spear headed by the Telangana Rashtra Samithi (TRS). Andhra Pradesh was the first state to be formed on the linguistic basis. But even after co-existence of 57 long years, the sense of same language has failed to keep the people of the state united.

The rationale behind the agitation for Telangana is not merely ‘Economic Backwardness’ but the culmination of grievances such as intentional neglect of the region in water sharing, funds allocation, employment opportunities and even cultural discrimination. These claims may or may not pass the test of rationality. But, once a section of people start exhibiting their serious apprehensions and inconveniences to live with their counterparts in other regions, it is difficult to sustain unity.

The Congress Party entered into an alliance with TRS in 2004 elections. But once in power, the ruling party showed little interest in creating Telangana state. By the year 2009, when general elections are due, the Congress Party had gone back on its promise. With the intensification of agitation for separate Telangana, Home Minister Chidambaram said in December 2009, that is serious about Telangana. The Government of India constituted a committee for consultations on the situation in Andhra Pradesh on 3rd February 2010. It was headed by Justice B.N.Sri Krishna. It examined two main issues namely, (i) the demand for separate statehood Telangana (ii) keeping the state united in the present form, Andhra Pradesh. The Committee submitted its report on 30 December, 2010 to the Ministry of Home Affairs.

The Sri Krishna Committee solicited suggestions and views from political parties, social organizations and other stakeholders. The Committee's report contained six options. They are mentioned as follows:

1. Maintaining the status quo.
2. Bifurcation of the state into Seemandhra and Telangana. Each state is to develop its own capital. Hyderabad is to be converted into a Union Territory.
3. Dividing AP into two states - one of Rayala Telangana with Hyderabad as its Capital and the second one of the coastal Andhra Pradesh.
4. Dividing Andhra Pradesh into Seemandhra and Telangana with enlarged Hyderabad metropolis as a separate Union Territory. It will be linked geographically to Guntur district in coastal Andhra via Nalgonda district in the south east and via Mahaboob Nagar district in the south to Kurnool district in Rayalaseema.
5. Bifurcation of the State into Telangana and Seemandhra as per existing boundaries with Hyderabad as capital of Telangana and Seemandhra to have new capital.
6. Keeping the State united and providing for creation of statutorily empowered Telangana Regional Council for socio-economic development and political development of Telangana region.

Telangana leaders rejected the recommendations of the Committee and insisted on the formation of Telangana state with Hyderabad as its capital. Protests in Telangana continued in the form of strikes, hunger strikes, suicides, giving petitions and roses to public officials and boycotting the public events. The Government of India announced the creation of Telangana on July 30, 2013. Andhra Pradesh Reorganization Bill, 2014 was passed by the Parliament in February 2014 amidst pandemonium in the Parliament. The Seemandhra region was in turmoil. The Bill was attested by the President on March, 1st 2014. The new state of Telangana was

created on 2nd June, 2014 with 119 members of Legislative Assembly and 40 members of Legislative Council, 17 members in the Lok Sabha and 7 members in Rajya Sabha. The residuary state of Andhra Pradesh would have 175 MLA's, 50 MLC's, 25 MP's in Lok Sabha and 11 MP's in Rajya Sabha. There would be a common High Court and the expenditure would be apportioned between the two states. Hyderabad will remain the common capital under the Governor's supervision for not more than ten years. Later in May 2015 a new capital city for Andhra Pradesh was announced with '*Amaravati*'. The capital city would stretch to the parts of Guntur and Krishna districts of the new state.

13.6 National Human Rights Commission of India

People are human so they are entitled to human rights. Human rights can't be bought earned or inherited. They are inalienable in the sense that no one has the right to deprive another for any reason. Human Rights determine standards to states and governments to protect the vulnerable individuals and groups against oppression. Any modern approach to human rights must be coherent and holistic. It means they should not only protect from physical oppression but also involve in economic, social, political and cultural rights. Educational institutions, civil society, government (including police and armed forces), corporate sector, individuals etc, should strive collectively to impart basic human values in the society and ensure that it is not just learning about but living with Human Rights.

The National Human Rights Commission (NHRC) is a statutory body. It was established on October 12th, 1993. Its statute is contained in the protection of Human Rights Act, 1993. The Act is in conformity with the Paris principles adopted at the First International Workshop (October, 1991) on national institutions for the promotion and protection of human rights. The said principles were endorsed by the U.N. General Assembly in its resolution 48/134 of December 20, 1993. The Commission is an embodiment of India's concern for the promotion and protection of human rights. This Act was amended in 2006.

The National Human Rights Commission is the guardian of human rights in the country i.e., the rights relating to life, liberty, equality and dignity of the individuals guaranteed by the constitution or embodied in the international governance and enforceable by the courts in India.

13.6.1 Definition of Human Rights

Section 2(d) of the protection of Human Rights Act, 1993 defines human rights as "rights relating to life, liberty, equality and dignity of the individual, guaranteed by the Constitution, or embodied in the international covenants and enforceable by the courts in India".

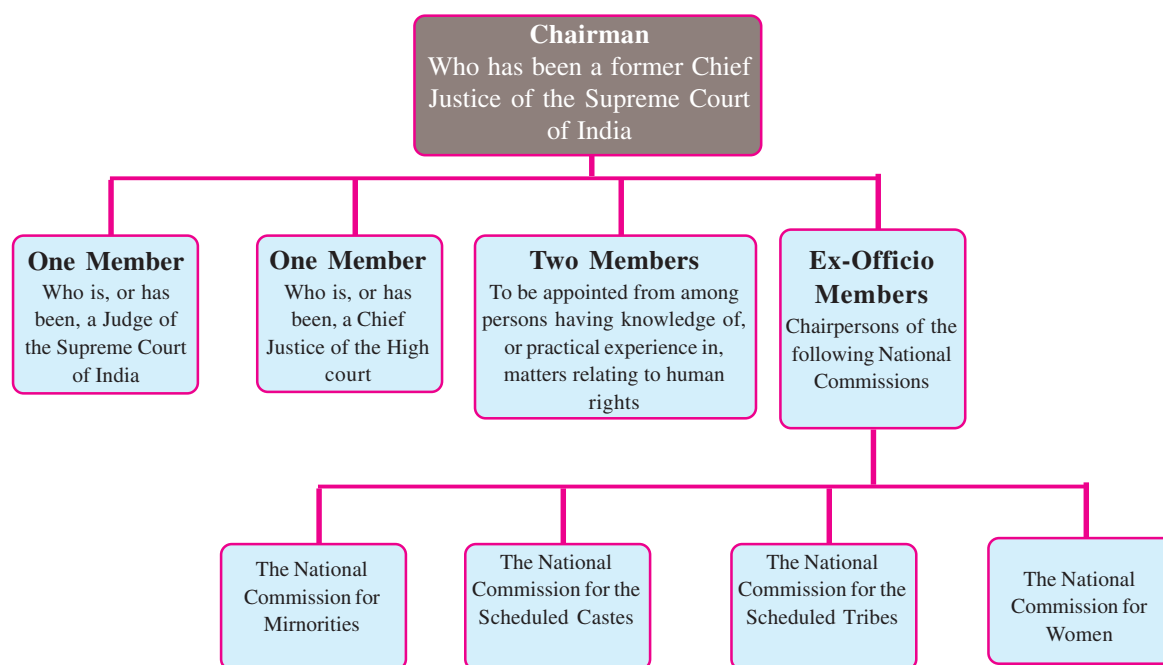
13.6.2 Distinctive Features of NHRC

The NHRC has certain distinctive features not enjoyed by other commission/regulatory bodies/autonomous institutions. These may be explained as follows.

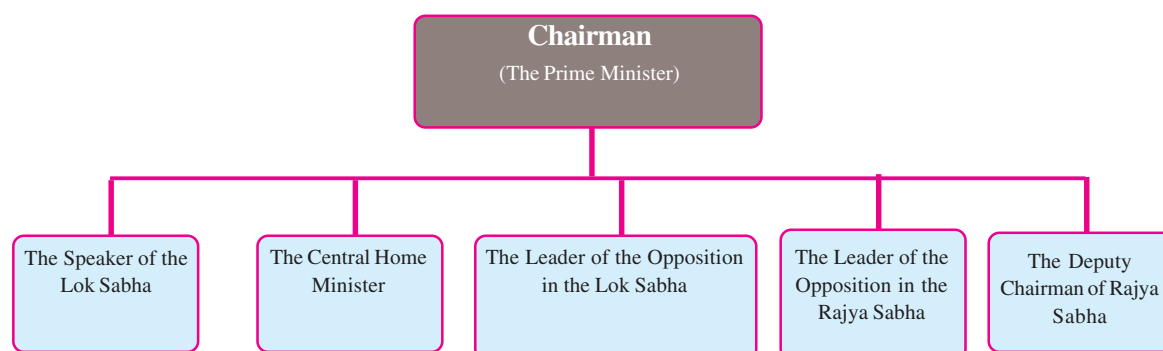
1. NHRC is autonomous. i.e., it has been created by an Act of Parliament.

2. It is committed to provide independent views on issues within the parlance of the Constitution or in law for the time being enforced for the protection of human rights. The Commission will have independent stand.
3. It has the powers of a civil court under the Code of Civil Procedure, 1908 in respect of summoning and enforcing the attendance of witness; discovery and production of any document; receiving evidence on affidavits; requisitioning any public record or copy thereof from any court or office; issuing commissions for the examination of witnesses or documents and request of public record as listed under Section 13 of the Act.
4. It has authority to grant interim relief.
5. It can recommend payment of compensation for the damages.
6. NHRC has a very wide mandate.
7. Over seventy thousand complaints are being received every year. This reflects the credibility of the Commission and the trust reposed in it by the citizens.
8. NHRC has unique mechanism with which it also monitors the implementation of its various recommendations.

13.6.3 Composition



The Commission is a multi-member body. The statute of the commission lays down the high qualifications that the members are required to have, to be eligible to be appointed to the



Commission. Section 3 of the Act lays down that the Commission shall consist of the following members as shown in the following table.

13.6.4 Appointment

The Chairman and the Members of the Commission are appointed by the President of India, on the recommendations of a six (6) member Committee consisting of:

Further a sitting judge of the Supreme Court or a sitting Chief Justice of High Court can be appointed only after consultation with the Chief Justice of India. This high level and politically balanced committee, together with the statutory requirements relating to the qualifications of the Chairperson and Members of the Commission, invest the Commission with a very high degree of credibility.

The chairman and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier. After their tenure, the chairman and members are not eligible for further employment under the Union or a State Government.

The President can remove the chairman or any member from the office under the following circumstances:

1. If he is adjudged an insolvent; or
2. If he engages, during his term of office, in any paid employment outside the duties of his office or
3. If he is unfit to continue in office by reason of infirmity of mind or body; or

4. If he is of unsound mind and stand so declared by a competent court; or
5. If he is convicted and sentenced to imprisonment for an offence.

In addition to these, the President can also remove the chairman or any member on the ground of proved misbehavior or incapacity. The salaries and allowances and other conditions of services of the chairman and members are determined by the Union Government.

13.6.5 Functions of the Commission

The main functions of the Commission are:

1. To enquire into any violation of human rights.
2. To intervene in any proceeding involving allegation of violation of human rights pending before a court.
3. To visit jails and detention places to study the living conditions of inmates and make recommendations thereon.
4. To review the constitutional and other legal safeguards for the protection of human rights and recommended measures for their effective implementation.
5. To review the factors including acts of terrorism that inhibits the enjoyment of human rights and recommend remedial measures.
6. To study treaties and other international instruments on human rights and make recommendations for their effective implementation.
7. To undertake and promote research in the field of human rights.
8. To spread human rights literature among the people and promote awareness of the safeguards available for the protection of human rights.
9. To encourage the efforts of NGO's working in the field of human rights.
10. To recommend to the concerned authorities to make payment of compensation or damage to the victims.

The Commission is not empowered to inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed. In other words it can look into the matter within one year of its occurrence.

From the above, it is clear that the functions of the Commission are mainly recommendatory in nature. It has no power to punish the violators of human rights, or to award any relief including monetary to the victims. Notably its recommendations are not binding on the concerned government or authority. Moreover, the Commission has limited role, powers and jurisdiction with respect to the violation of human rights by the armed forces. In this

context, a former member of the Commission observed ‘the government cannot wish away the recommendations made by the commission. The Commission’s role may be advisory, recommendatory, yet the government considers the cases forwarded by it. It is, therefore, improper to say that the Commission is powerless. It enjoys great material authority and no government can ignore its recommendations.’ Therefore, basing on the above statement and observations the Act must be amended to make the Commission a strong, independent and vibrant institution, supporting democracy and good governance.

13.7 State Human Rights Commission (SHRC)

The Human Rights Protection Act, 1993 facilitates not only the creation of National Human Rights Commission but also a State Human Rights Commission at the state level. At present 23 states in India have constituted the State Human Rights Commission and Andhra Pradesh is one among them. The main objective of State Human Rights Commission is to inquire into violation of human rights only in respect of subjects mentioned in the State List and Concurrent List of the 7th schedule of Constitution.

13.7.1 Composition and Powers

The State Human Rights Commission consists of a Chairman and two members. The Chairman should be a retired Chief Justice of the High Court and members should be a serving or retired judge of a High Court or a District Judge in a state with seven years experience and a person having knowledge or practical experience with respect to human rights.

The Chairman and members are appointed by the concerned State Governor on the recommendations of a committee consisting of the Chief Minister as its head, the Speaker of the Legislative Assembly, the State Home Minister and the Leader of the Opposition in the Legislative Assembly. In the case of a state having Legislative Council, the Chairman of the Council and the Leader of the Opposition in the Council would also be the members of the committee. The sitting judge of a High Court or a sitting District Judge can be appointed as members only after consultation with the Chief Justice of the High Court of the concerned state.

The Chairman and members of the Commission hold office and other conditions like tenure, salary and allowances are similar to the National Human Rights Commission. Though, the Chairperson and members of a State Human Rights Commission are appointed by the Governor, they can be removed only by the President of India on the grounds similar to the National Human Rights Commission. The powers, functions and working procedure of the State Human Rights Commission are also similar to the National Human Rights Commission.

13.7.2 Human Rights Courts

The Human Rights Protection Act, 1993 provides for the establishment of Human Rights Court in every district for the speedy trial of violation of human rights. These courts can be set-up by the state government only with the concurrence of the Chief Justice of the High Court of that state. The state government appoints an advocate as a special public prosecutor to look into the matters relating to the violation of human rights at the district level.

13.8 Right to Information Act, 2005 (RTI)

Modern times necessitated an activist public government; as a result enormous powers are being exercised by civil servants. On various occasions the power is misused. As such, there is an urgent need to prevent the misuse of authority and ensure accountability on the part of administration. Right to Information (RTI) is an effective tool in the hands of an average citizen in controlling the government. The Right to Information Act was enacted in 2005 by the Indian Parliament and thus gave a powerful tool to the citizens to get information from the government departments as a matter of right. This law is very comprehensive and covers almost all matters of governance at all levels i.e., Union and State and Local. In any democratic system, governments are responsible and accountable to the people. Earlier the accountability of the Government and its functionaries were mostly limited to the elected representatives of the people. Disseminating the information that is generated by the Government to any citizen, who may be interested, now becomes the responsibility of all the government departments.

13.8.1 The rationality of RTI

The following are the rationalities behind the Right to Information Act 2005:

- 1) Openness and accessibility of people to information about the government functioning is a vital component of democracy.
- 2) Modern democracy insists upon accountability. It is through the accessibility to the information by the general public that makes the civil service and political executive (ministers) accountable to the people.
- 3) Transparency and openness in the functioning of an agency have a cleansing effect on the operations of public agencies. After all, sunlight is the best disinfectant; so also the RTI.

All modern states are providing for the RTI. Sweden is the first country to come up with the 'Freedom of the Press Act' in 1766, the oldest law in the world. South Africa is the first country to guarantee the RTI as the fundamental right. USA in 1966, Australia in 1982, Canada

in 1980, New Zealand in 1982, UK in 1997 has come up with RTI Acts. In India a draft model bill was worked out in 1996 and the Parliament approved the Freedom of Information Bill in 2002. It couldn't be operationalized as it suffered with several limitations. Ultimately, a revived bill was approved by the Parliament and the current RTI Act is in operation since 2005. Many of the states like Maharashtra, Gujarat, Goa etc., have come up with their own acts. For the RTI to be effective, the following four important principles are to be kept in mind:

- 1) Exemptions should be as few as possible.
- 2) Fee should be affordable to the poor.
- 3) There should be an independent yet non judicial appellate mechanism.
- 4) There should be a stringent penalty for the defiance.

The RTI 2005, has a far wider range and scope than any of its predecessors. It covers all the Central and State Government offices~ Any agency owned or financed by the government including non governmental agencies come under the purview of the Act. Exemptions are limited and penalties are to be provided for non-compliance. Its universal application, empowerment of all its citizens, reasonable fee, public interest to override, possible harm to individual, *suo moto* and web based disclosure etc., are some of the positive aspects of this Act. However, it suffers with certain limitations which include:

- 1) Information could be sought by citizens but not by persons.
- 2) All violations are treated equally.
- 3) Political establishment appoints commissions
- 4) Third parties are allowed to appeal.
- 5) Intelligence and security agencies are exempted.
- 6) *Suo moto* provisions have been dropped for sensitive and commercial information.

13.8.2 Objective of the RTI Act 2005

The basic objective of the RTI Act is to empower the citizens, promote transparency and accountability in the working of the government, contain corruption and make our democracy work for the people in real sense.

13.8.3 What is Information?

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models and data material in any electronic form.

13.8.4 Process of securing the Information

Any citizen of the country can seek information from any agency subject to certain limitations. The applicant should submit an application to the Public Information Officer (PIO) or Assistant PIO or who is the officer to give information to a person, who seeks information under this Act, accompanied by a nominal fee (usually Rs.10/-) in the form of demand draft/banker cheque/Indian Postal Order/Court Fee stamp. Persons below the poverty line (BPL) are exempted from the fee payment. However he/she should submit a proof in support of his or her claim for belonging to the section below poverty line. Information is to be provided by the PIO/asst. PIO within 30 days if life and liberty is involved, the information should be furnished within 48 hours where third party is involved it is to be provided within 40 days. If the information is not forthcoming within the stipulated period, first appeal can be made to the head of the department. After a reasonable gap, the second appeal can be made to Information Commission. For refusing to furnish information or for unreasonable delay or for providing false information, a penalty of Rs.250/- a day can be levied up to a maximum of Rs.25000/-, and the employee can be prosecuted. The Act provides for the constitution of Central/State Information Commissions. Given below are the details of organizational set up and their functions:

13.8.5 Central Information Commission (CIC)

Central Information Commission (CIC) is constituted by the Central Government through a Gazette Notification. The Commission includes one Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC) who will be appointed by the President of India. The oath of office will be administered by the President of India. The Commission shall have its headquarters in Delhi. Other offices may be established in other parts of the country with the approval of the Central Government. The Commission will exercise its powers without being subjected to directions by any other authority.

13.8.6 Eligibility and appointment

Candidates for CIC/IC must be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service management, journalism, mass media or administration and governance. CIC/IC shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory. He shall not hold any other office of profit or be connected with any political party or carrying on any business or pursuing any profession. The appointment Committee includes Prime Minister (Chair), Leader of the Opposition in the Lok Sabha and one Union Cabinet Minister to be nominated by the Prime Minister.

13.8.7 Term and Service Conditions

The Central Information Commissioner (CIC) shall be appointed for a term of 5 years from date on which he enters upon his office or till he attains the age of 65 years, whichever is earlier. The CIC is not eligible for reappointment. The salary will be the same as that of the Chief Election Commissioner. This will not be varied to the disadvantage of the CIC during service.

13.8.8 Term and other service conditions of Information Commissioner (IC)

IC shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier and shall not be eligible for reappointment as IC. Salary will be the same as that of the Election Commissioner. This will not be varied to the disadvantage of the IC during service. IC is eligible for appointment as CIC but will not hold office for more than a total five years including his/her term as IC.

13.8.9 State Information Commission (SIC)

The State Information Commission is constituted by the State Government through a Gazette Notification Commission. It includes one State Chief Information Commissioner (CIC) and not more than 10 State Information Commissioners (IC) who will be appointed by the Governor. The oath of office will be administered by the Governor. The headquarters of the State Information Commission shall be at such place as the State Government may specify and other offices may be established in other parts of the State with the approval of the State Government. The Commission will exercise its powers without being subjected to directions by any other authority.

13.8.10 Eligibility

The Appointments Committee meant for the State Chief Information Commissioner and State Information Commissioners will be headed by the Chief Minister. Other members include the Leader of the Opposition in the Legislative Assembly and one Cabinet Minister nominated by the Chief Minister. The Qualifications for appointment as SCIC/SIC shall be the same as that for Central Information Commissioners. The salary of the State Chief information Commissioner will be the same as that of an Election Commissioner. The salary of the State Information Commissioner will be the same as that of the Chief Secretary of the State Government.

13.8.11 Powers and functions of Information Commissions?

1. The Central Information Commission/State Information Commission (CIC/SCIC) has a duty to receive complaints from any person-
 - a) Who has not been able to submit an information request because a PIO has not been appointed?
 - b) Who has been refused information that was requested?
 - c) Who has received no response to his/her information request within the specified time limits;
 - d) Who thinks the fees charged are unreasonable;
 - e) Who thinks the information given is incomplete or false or misleading; and
 - f) Any other matter relating to obtaining information under this law.
2. Power to order inquiry if there are reasonable grounds.
3. The Central Information Commission/State Information Commissions (CIC/SCIC) will have powers of Civil Court such as-
 - a) Summoning and enforcing attendance of persons, compelling them to give oral or written evidence on oath and to produce documents or things;
 - b) Requiring the discovery and inspection of documents;
 - c) Receiving evidence on affidavit;
 - d) Requisitioning public records or copies from any court or office
 - e) Issuing summons for examination of witnesses or documents
 - f) Any other matter which may be prescribed.
4. All records covered by this law (including those covered by exemptions) must be given to Central Information Commission/State Information Commission (CIC/SCIC) during inquiry for examination.
5. Power to secure compliance of its decisions from the Public Authority includes
 - a) Providing access to information in a particular form;
 - b) Directing the public authority to appoint a PIO/APIO where none exists;
 - c) Publishing information or categories of information;
 - d) Making necessary changes to the practices relating to management, maintenance and destruction of records;
 - e) Enhancing training provision for officials on RTI.
 - f) Seeking an annual report from the public authority on compliance with this law;
 - g) Require it to compensate for any loss or other detriment suffered by the applicant.
 - h) Impose penalties under this law.

The Right to Information Act (RTI) The Act is in force for a decade. Unfortunately, it didn't usher in a transparent government, due to apathy on the part of politicians and hostility on the part of civil servants. More importantly, the common man is not aware of this Act and its benefits. A vibrant civil society is needed to create awareness among the masses.

Summary

Many developments have taken place in the political history of Andhra Pradesh and India during the recent decades. Of them, Re-organisation of states, birth of Andhra State, emergency of Andhra State, emergence of Andhra Pradesh, political crisis in Andhra Pradesh in 1969 and 1972, bifurcation of Andhra Pradesh etc. are mentioned praise worthy. In 1990's National Human Rights Commission of India was set up for protecting the human rights of Indian people. Later several Human Rights Commission were set up in various states in India. The enactment of Right to Information Act in 2005 is a major land mark in India. The said Act brought awareness among the common people towards the working of the public authorities in India.

QUESTIONS

I. Long Answer Questions

- 1) Describe the formation of Andhra Pradesh State.
- 2) Examine the causes that led to bifurcation of Andhra Pradesh.
- 3) Define Human Rights. Describe the structure of National Human Rights Commission of India.
- 4) Explain about the Right to Information Act.

II. Short Answer Questions

- 1) Describe the formation of Andhra state.
- 2) Examine the factors that led to Jai Andhra Movement.
- 3) What are the initiatives undertaken by NHRC?
- 4) Why are Human Rights Commissions necessary at the National and State level?
- 5) What are the powers and functions of Information Commissions?
- 6) How is the Central Information Commission constituted?
- 7) What is the time limit to get the information?
- 8) What are the different options suggested by Sri Krishna Committee regarding the status of Andhra Pradesh state?

III. Very Short Answer Questions

- 1) Gentlemen Agreement
- 2) JVP Committee
- 3) Sri Bagh pact
- 4) Fazal Ali Commission
- 5) Criteria to be followed to be appointed as the chairperson of NHRC.
- 6) Procedure to be considered for the appointment of chairperson and members of the state HRC.
- 7) Human rights Commission as a civil court.
- 8) The jurisdiction of NHRC on armed forces.
- 9) Public Information Officer (PIO).
- 10) What is information?

Update on Recent Political Developments/Changes

Annexure I

1. As on 22 May 2023, India has 28 States and 8 Union Territories.
2. With effect from 31 October 2019, the Government of India repealed the special status to Jammu and Kashmir under Article 370 of the Indian Constitution. The Parliament passed the Jammu and Kashmir Reorganization Act and according to the provisions, the State is reorganized into two Union Territories, Jammu and Kashmir in the west and Ladakh in the east.

According to the Delimitation Commission of the Union Territory of Jammu and Kashmir, out of the 90 seats 43 are in Jammu Division and 47 seats are in Kashmir Division, when the elections will be held after revocation of Article 370.

3. In January 2020, the Anglo-Indian reserved seats in Indian Parliament and some state legislatures were discontinued by the 104th Constitutional Amendment Act of 2019. References in the text relating to Anglo Indian members of the Lok Sabha may be appropriately read.
4. The Supreme Court of India has a Chief Justice and 33 other Judges.
5. Salary and allowances of various Offices may have changed (in some cases substantively) from the figures provided in the Text. For correct information, make appropriate efforts to know specific increases.
6. Efforts may be made by the student to be aware of the developments in Andhra Pradesh during the last seven years in the political and administrative arenas through other reliable and authentic academic resources.

Annexure II

List of Presidents of India (Continued from Page 37)

Name of the President	Tenure	
	From	To
16. Pranab Mukharjee	25-07-2012	25-07-2017
17. Ram Nath Kovind	25-07-2017	25-07-2022
18. Droupadi Murmu	25-07-2022	Incumbent

List of Vice-Presidents of India (Continued from Page 47)

M. Hamid Ansari	2007	2012
M. Hamid Ansari (Second Time)	2012	2017
M. Venkaiah Naidu	2017	2022
Jagdeep Dhankhar	2022	Incumbent

List of Prime Ministers of India (Continued from Page 50)

Narendra Modi	26-05-2014	30-05-2019
Narendra Modi	30-05-2019	Incumbent

Council of Ministers (As on 22-5-2023) Revised the Page 55

Shri Narendra Modi

Prime Minister and also in-charge of: Ministry of Personnel, Public Grievances and Pensions; Department of Atomic Energy; Department of Space; All important policy issues; and All other portfolios not allocated to any Ministry

CABINET MINISTERS

1. Shri Raj Nath Singh	Ministry of Defence
2. Shri Amit Shah	Ministry of Home Affairs; and Cooperation
3. Shri Nitin Jairam Gadkari	Ministry of Road Transport and Highways
4. Smt. Nirmala Sitharaman	Ministry of Finance; and Corporate Affairs
5. Shri Narendra Singh Tomar	Ministry of Agriculture and Farmers Welfare
6. Dr. Subrahmanyam Jaishankar	Ministry of External Affairs
7. Shri Arjun Munda	Ministry of Tribal Affairs

8. Smt. Smriti Zubin Irani	Ministry of Women and Child Development; and Minority Affairs
9. Shri Piyush Goyal	Ministry of Commerce and Industry; Consumer Affairs, Food and Public Distribution; and Textiles
10. Shri Dharmendra Pradhan	Ministry of Education; and Skill Development and Entrepreneurship
11. Shri Pralhad Joshi	Ministry of Parliamentary Affairs; Coal; and Mines
12. Shri Narayan Tatu Rane	Ministry of Micro, Small and Medium Enterprises
13. Shri Sarbananda Sonowal	Ministry of Ports, Shipping and Waterways; and Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH)
14. Dr. Virendra Kumar	Ministry of Social Justice and Empowerment
15. Shri Giriraj Singh	Ministry of Rural Development; and Panchayati Raj
16. Shri Jyotiraditya M. Scindia	Ministry of Civil Aviation; and Steel
17. Shri Ashwini Vaishnaw	Ministry of Railways; Communications; and Electronics and Information Technology
18. Shri Pashupati Kumar Paras	Ministry of Food Processing Industries
19. Shri Gajendra Singh Shekhawat	Ministry of Jal Shakti
20. Shri Kiren Rijiju	Ministry of Earth Science
21. Shri Raj Kumar Singh	Ministry of Power; and New and Renewable Energy
22. Shri Hardeep Singh Puri	Ministry of Petroleum and Natural Gas; and Ministry of Housing and Urban Affairs
23. Dr. Mansukh Mandaviya	Ministry of Health and Family Welfare; and Ministry of Chemicals and Fertilizers
24. Shri Bhupender Yadav	Ministry of Environment, Forest and Climate Change; and Labour and Employment
25. Dr. Mahendra Nath Pandey	Ministry of Heavy Industries
26. Shri Parshottam Rupala	Ministry of Fisheries, Animal Husbandry and Dairying
27. Shri G. Kishan Reddy	Ministry of Culture; Tourism; and Development of North Eastern Region
28. Shri Anurag Singh Thakur	Ministry of Information and Broadcasting; and Youth Affairs and Sports

MINISTERS OF STATE (INDEPENDENT CHARGE)

1. Rao Inderjit Singh	Programme Implementation; Planning; and Corporate Affairs
2. Dr. Jitendra Singh	Science and Technology; Earth Sciences; Prime Ministry's Office; Personnel, Public Grievances and Pensions; Department of Atomic Energy; and Department of Space
3. Sri Arjunrao Meghwal	Ministry of Law and Justice

MINISTERS OF STATE

1. Shri Shripad Yesso Naik	Ministry of Ports, Shipping and Waterways; and Ministry of Tourism Ministry of Programme Implementation
2. Shri Faggansingh Kulaste	Ministry of Steel; and Ministry of Rural Development Ministry of Science and Technology
3. Shri Prahalad Singh Patel	Ministry of Jal Shakti; and Food Processing Industries
4. Shri Ashwini Kumar Choubey	Ministry of Consumer Affairs, Food and Public Distribution; and Environment, Forest and Climate Change
6. General (Retd.) V. K. Singh	Ministry of Road Transport and Highways; and Ministry of Civil Aviation
7. Shri Krishan Pal	Ministry of Power; and Ministry of Heavy Industries
8. Shri Danve Raosaheb Dadarao	Ministry of Railways; Coal; and Mines
9. Shri Ramdas Athawale	Ministry of Social Justice and Empowerment
10. Sadhvi Niranjana Jyoti	Ministry of Consumer Affairs, Food and Public Distribution; and Rural Development
11. Dr. Sanjeev Kumar Balyan	Ministry of Fisheries, Animal Husbandry and Dairying
12. Shri Nityanand Rai	Ministry of Home Affairs
13. Shri Pankaj Chaudhary	Ministry of Finance
14. Smt. Anupriya Singh Patel	Ministry of Commerce and Industry
15. Prof. S. P. Singh Baghel	Ministry of Law and Justice
16. Shri Rajeev Chandrasekhar	Ministry of Skill Development and Entrepreneurship; and Electronics and Information Technology
17. Sushri Shobha Karandlaje	Ministry of Agriculture and Farmers Welfare
18. Shri Bhanu Pratap Singh Verma	Ministry of Micro, Small and Medium Enterprises
19. Smt. Darshana Vikram Jardosh	Ministry of Textiles; and Ministry of Railways

20. Shri V. Muraleedharan	Ministry of External Affairs; and Parliamentary Affairs
21. Smt. Meenakashi Lekhi	Ministry of External Affairs; and Culture
22. Shri Som Parkash	Ministry of Commerce and Industry
23. Smt. Renuka Singh Saruta	Ministry of Tribal Affairs
24. Shri Rameswar Teli	Ministry of Petroleum and Natural Gas; and Labour and Employment
25. Shri Kailash Choudhary	Ministry of Agriculture and Farmers Welfare
26. Smt. Annpurna Devi	Ministry of State in the Ministry of Education
27. Shri A. Narayanaswamy	Ministry of State in the Ministry of Social Justice and Empowerment
28. Shri Kaushal Kishore	Ministry of Housing and Urban Affairs
29. Shri Ajay Bhatt	Ministry of Defence; and Tourism
30. Shri B. L. Verma	Ministry of Development of North Eastern Region; and Cooperation
31. Shri Ajay Kumar	Ministry of Home Affairs
32. Shri Devusinh Chauhan	Ministry of Communications
33. Shri Bhagwanth Khuba	Ministry of New and Renewable Energy; Fertilizers
34. Shri Kapil Moreshwar Patil	Ministry of Panchayati Raj
35. Sushri Pratima Bhounik	Ministry of Social Justice and Empowerment
36. Dr. Subhas Sarkar	Ministry of Education
37. Dr. Bhagwat Kishanrao Karad	Ministry of Finance
38. Dr. Rajkumar Ranjan Singh	Ministry of External Affairs; Education
39. Dr. Bharati Pravin Pawar	Ministry of Health and Family Welfare
40. Shri Bishweswar Tudu	Ministry of Tribal Affairs; and Jal Shakti
41. Shri Shantanu Thakur	Ministry of Ports, Shipping and Waterways
42. Dr. Munjapara Mahendrabhai	Ministry of Women and Child Development; Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH)
43. Shri John Barla	Ministry of Minority Affairs
44. Dr. L. Murugan	Ministry of Fisheries, Animal Husbandry and Dairying; Information and Broadcasting
45. Shri Nisith Pramanik	Ministry of Home Affairs; and Youth Affairs and Sports

Tenure of Lok Sabha (Continued from Page 68)

Sixteenth Lok Sabha	04-06-2014	24-05-2019
Seventeenth Lok Sabha	29-05-2019	Before May 2024

Speakers of Lok Sabha (Continued from Page 70)

Sixteenth Lok Sabha	Mrs. Sumitra Mahajan	06-06-2014	17-06-2019
Seventeenth Lok Sabha	Om Birla	19-06-2019	Incumbent

List of Chief Justices of India (Continued from Page 96)

42	H.L. Dutta	28-05-2014	2-12-2015
43	T.S. Thakur	03-12-2015	03-01-2017
44	Jagdish Singh Khehar	04-01-2017	27-08-2017
45	Deepak Mishra	28-08-2017	02-10-2018
46	Ranjan Gogoi	03-10-2018	17-11-2019
47	Sharad Arvind Bobde	18-11-2019	23-04-2021
48	Nuthalapati Venkata Ramana	24-04-2021	26-08-2022
49	Uday Umesh Lahit	27-08-2022	08-11-2022
50	Dhananjaya Yeshwanth Chandrachud	09-11-2022	Incumbent

Chief Ministers and Governors of India 2023 List

State	Chief Minister	Governor
Andhra Pradesh	Y.S. Jagan Mohan Reddy	S. Abdul Nazeer
Arunachal Pradesh	Pema Khandu Trivikram Parnaik	Lt. General Kaiwalya
Assam	Himanta Biswa Sarma	Gulab Chand Kataria
Bihar	Nitish Kumar	Rajendra Vishwanath Arlekar
Chhattisgarh	Bhupesh Baghal	Biswa Bhushan Harichandan
Goa	Pramod Sawant	P.S. Sreedharan Pillai
Gujarat	Vijaybhai R. Rupani	Acharaya Devvrat
Haryana	Bhupendrabhai Patel	Bandaru Dattatreya
Himachal Pradesh	Sukhvinder Singh Sukhu	Shiv Pratap Shukla
Jharkhand	Hemant Soren	C.P. Radhakrishnan

State	Chief Minister	Governor
Karnataka	Siddharamaiah	Thaawarchand Gehlot
Kerala	Pinarayi Vijayan	Arif Mohammed Khan
Madhya Pradesh	Shivraj Singh Chouhan	Mangubhai Chaganbhai Patel
Maharashtra	Eknath Shinde	Ramesh Bais
Manipur	N. Biren Singh	Anusuiya Uikye
Meghalaya	Conrad Kongkal Sangma	Phagu Chauhan
Mizoram	Zoramthanga	Dr. Kambhampati Haribabu
Nagaland	Neiphiu Rio	Shri La. Ganesan
Odisha	Naveen Patnaik	Prof. Ganeshi Lal Mathur
Punjab	Bhagwant Singh Mann	Shri Banwarilal Purohit
Rajasthan	Ashok Gehlot	Kalraj Mishra
Sikkim	Prem Singh Tamang	Lakshman Prasad Acharya
Tamil Nadu	M.K Stalin	R.N. Ravi
Telangana	K.Chandrashekhar Rao	Dr. Tamilisai Soundararajan
Tripura	Manik Shah	Satyadeo Narayan Arya
Uttar Pradesh	Yogi Adityanath	Anandiben Patel
Uttarakhand	Pushkar Singh Dhami	L.T. Gen Gurmit Singh
West Bengal	Mamata Banerjee	Dr CV Ananda Bose

Union Territories - Lieutenant Governors - Administrators - Capitals

Andaman & Nicobar	Shri. Devendra Kumar Joshi (Lieutenant Governor)	Port Blair
Chandigarh	Banwarilal Purohit (Administrator)	Chandigarh
Dadra and Nagar Haveli and Daman and Diu	Shri Praful Patel (Administrator)	Daman
Delhi	Vinod Kumar Saxena	New Delhi
Jammu and Kashmir	Shri Manoj Sinha (Lieutenant Governor)	Srinagar
Lakshadweep	Shri Praful Patel (Administrator)	Kavaratti
Puducherry	Tamilisai Soundararajan (Additional Charge)	Puducherry
Ladakh	Brig (Dr) B D Mishra (Retd)	Leh

Union Territories - Chief Ministers

Delhi	Arvind Kejriwal
Pondichery	N. Rangaswamy

List of Chief Ministers of Andhra Pradesh (Continued from Page 139)

23. N. Chandra Babu Naidu	05-06-2014	30-05-2019
24. Y.S. Jagan Mohan Reddy	30-05-2019	Incumbent

List of Governors of Andhra Pradesh (Continued from Page 121)

22. E.S.L Narasimhan	28-12-2009	22-01-2014
23. E.S.L Narasimhan	02-06-2014	23-07-2019
24. Biswabhushan Harichandan	24-07-2019	23-02-2023
25. Justice (Retd.) S. Abdul Nazeer	24-02-2023	Incumbent

List of Speakers of Andhra Pradesh (Continued from Page 139)

19. Kodela Siva Prasada Rao	20-06-2014	
20. Thammineni Seetharam	30-05-2019	Incumbent

List of Chairpersons of the Legislative Council (Continued from Page 146)

A Chakrapani	2007	2017
N.M.D. Farooq	2017	Nov, 2018
Shariff Mohammed Ahmed	07-02-2019	31-05-2021
Koyye Moshenu Raju	19-11-2021	Incumbent

Chairpersons of the Finance Commission

Fifteenth 2017	N.K. Singh	2020-25
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Women Representation in Lok Sabha in India (Continued from Page 235)

Seventeenth Lok Sabha	
No. of Women Candidates contested	716
Elected	78

Chief Election Commissioners of India (Continued from Page 237)

20. Syed Nasim Ahmed Zaidi	19-04-2015	05-07-2017
21. A.K. Jyothi	06-07-2017	22-01-2018
22. Om Prakash Rawat	23-01-2018	01-12-2018
23. Sunil Arora	02-12-2018	12-04-2021
24. Sushil Chandra	13-04-2021	14-05-2022
25. Rajiv Kumar	15-05-2022	Incumbent

Representation by Parties in Lok Sabha (Continued from Page 233)

Seventeenth 2019, No. of Candidates Contested - 8039, Electorates (million) - 880.53

Representation by Parties in Lok Sabha (Continued from Page 234)

Seventeenth 542

303 (BJP) + Allies 48