

COURSE TITLE: CONSTITUTION OF INDIA

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Constitution of India

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CONSTITUTION OF INDIA

INTRODUCTION:

The English word Constitution is derived from Latin word *Constitute* which means to form or to compose.

Definitions

1. Constitution is the basic principles and laws of a nation, state or social group that determine the powers and duties of the government and guarantee certain rights to the people in it.
2. Constitution is asset of records which related to Government and its People.
3. A Constitution is the law which governs the state.
4. Constitution is the collection of principles according to which the powers of government, theright of the governed and relation between the two adjusted.
5. The Constitution establishes the basic division of power in a state and determines who has the authority to make laws.
6. The Constitution establishes the structure of a Parliament and gives it the authority to make laws and policies.
7. The Constitution empowers the government to realize a society's ambitions and to provide conditions for a just Society.

TYPES OF CONSTITUTION

1. Written Constitution
2. Un written Constitution

CONSTITUTIONAL DEVELIOMENT IN INDIA

The Constitutional Development in India can be broadly classified into Two phases.

1. CONSTITUTIONAL DEVELOPMENT IN COMPANY RULE (1773-1857)

2. CONSTITUTIONAL DEVELOPMENT IN CROWN RULE 1858-1947)

1. CONSTITUTIONAL DEVELOPMENT IN COMPANY RULE (1773-1857)

During the East India Company Rule various acts were passed in British Parliament to control and supervise the activities of the Company.

- I. Regulating Act of 1773
- II. Pitt's India Act 1784
- III. Charter Act of 1793
- IV. Charter Act of 1813
- V. Charter Act of 1833
- VI. Charter Act of 1853

2. CONSTITUTIONAL DEVELOPMENT IN CROWN RULE (1858-1947)

The period commenced the 2nd phase of the major landmark in the Constitutional Development of India under the British crown.

- I. Government Act 1858
- II. Indian Council Act 1861
- III. Indian Council Act 1892
- IV. Minto-Morley Reforms 1909
- V. Montagu-Chelmsford Reforms 1919
- VI. Government of India Act 1935
- VII. Mountbatten Plan 1947

CONSTITUTIONAL DEVELOPMENT IN COMPANY RULE (1773-1857)

I. Regulating Act of 1773

Regulating Act 1773 was the first act towards Constitutional Development in India enacted by the British Parliament to manage and control the affairs of the East India Company in India.

- ❖ Governor Bengal post changed into governor general of Bengal.
- ❖ Establishment of Supreme Court in Calcutta.
- ❖ Executive council under Governor general consisting 4 members.
- ❖ Prohibited the servants of the Company from involving in any Private trade or taking presents or bribe from the natives
- ❖ India's Civil and military affairs as well as its revenues were required to be disclosed to the British Crown.

II. Pitt's India Act 1784

- ❖ Pitt's India act which was distinguished between Commercial and Political functions of the company.
- ❖ It was the first step taken by the British Government to Control and regulate the affairs of the East India Company in India.
- ❖ Pitt's India act founded central administration in India.
- ❖ The Governor General was granted Veto power
- ❖ Board of Control was established.

III. Charter Act of 1793

- ❖ The company's trade monopoly in India was extended for another 20 years.
- ❖ The Act declared that "gain of sovereignty by Crown subjects is on behalf of the Crown and not in its own right," implying that the company's political activities were carried out on behalf of the British government
- ❖ This Act separated the company's revenue administration and judicial functions
- ❖ The Governor-General now has more authority. Under certain circumstances, he might override his council's judgment.

IV Charter Act of 1813

- ❖ The Charter act of 1813, also called the East India Company Act 1813
- ❖ End to the monopoly of the East India Company in India.
- ❖ This act also gave missionaries freedom to enter India and engage in religious proselytization.
- ❖ There was also a provision that Company should invest Rs. 1 Lakh every year on the education of Indians
- ❖ It empowered the Local Governments in India to impose taxes on persons and to punish those who did not pay them
- ❖ The act called for a financial grant to support the rebirth of Indian literature and the advancement of science, as well as greater responsibility for the corporation in the education of the Indians under their control.

V Charter Act of 1833

- ❖ The charter act of 1833 legalized the British colonization of India
- ❖ It ended the activities of the East India Company as a commercial body, it became an administrative body
- ❖ It made the Governor-General of Bengal as the Governor-General of India
- ❖ This made Lord William Bentinck the first Governor-General of India
- ❖ This Act introduced a system of open competition for selection of civil servants
- ❖ First time, the Governor-General's government was called Government of India and the council was called India Council.
- ❖ Indian Law Commission was established to codify all Indian laws.
- ❖ The first Law Commission had Lord Macaulay as its chairman

VI Charter Act of 1853

- ❖ first time, the Governor-legislative General's Council's and executive functions were separated
- ❖ This Act was passed when Lord Dalhousie was the Governor-General of India.
- ❖ The Charter Act of 1853 empowered the British East India Company to retain the territories and the revenues in India in trust for the crown not for any specified period
- ❖ The Charter Act of 1853 provided that the salaries of the members of the Boards of Control, its Secretary, and other officers would be fixed by the British government but would be paid by the Company.

3. CONSTITUTIONAL DEVELOPMENT IN CROWN RULE (1858-1947)

1. Government Act 1858

- ❖ Government of India Act (1858) was passed by the British Parliament on August 2, 1858
- ❖ East India Company was liquidated. Indian territories in Britain were to be governed in the name of the British queen.
- ❖ The act made India a direct British Colony
- ❖ The Indian civil services were to be instituted to assist the smooth functioning of the administration of the country. There were provisions for Indians to be admitted into service.
- ❖ The act put an end to the doctrine of lapse as well as abolished the dual government
- ❖ The court of directors and the Board of Control of the British East India company was scrapped
- ❖ The powers of the company's Court of directors were shifted to and vested in the Secretary of State for India (First Secretary of State for India: Lord Stanley)
- ❖ The representative of the British government in India was the Governor Viceroy. (First Governor-General and Viceroy of India: Lord Canning
- ❖ Pardon would be granted to all the Indians who participated in the mutiny except those who had killed British subjects
- ❖ The Indian Civil Services was to be established to administer the country.

II. Indian Council Act 1861

- ❖ The Indian Councils Act of 1861 is an important landmark in the constitutional and political history of India
- ❖ The decentralisation was initiated by this act
- ❖ Providing for the provision of the Viceroy nominating some Indian members to his extended council.
- ❖ It empowered the Viceroy to make rules and orders for a better and more convenient transaction of business in the council.
- ❖ Any bill relating to public revenue or debt, the military, religion, or foreign affairs could not be passed without the Governor-General's approval.

III Indian Council Act 1892

- ❖ The act made it clear that the members appointed to the council were not there as representatives of any Indian body, but as nominees of the Governor-General.
- ❖ It raised the number of (non-official) members in the Central and Provincial Legislative Councils
- ❖ The elected members were permitted to discuss official and internal matters
- ❖ To elect members of the councils, an indirect election system was implemented
- ❖ Members of provincial councils could be recommended by universities, district boards, municipalities, zamindars, and chambers of commerce

IV Minto-Morley Reforms 1909

Indian Councils Act (1909) was passed by the British government in India as a step towards including Indians in government. The act is also known as the Morley-Minto Reforms.

- ❖ the federal and provincial levels, the size of legislative councils has increased
- ❖ The Imperial Legislative Council welcomed Indians for the first time
- ❖ It introduced a system of communal representation for Muslims by accepting the concept of 'separate electorate'.
- ❖ Satyendra P Sinha was named to the Viceroy's Executive Council as the first Indian member
- ❖ The Secretary of State's Council on Indian Affairs has been expanded by two Indians

V Montagu-Chelmsford Reforms 1919

- ❖ The main purpose of the Government of India Act 1919 also known as the Councils Act 1919 was to expand the participation of the Indian people
- ❖ The Act also provided for a Dual System of Government
- ❖ Introduction of Diarchy at the Provincial Level
- ❖ Women were also given the right to vote
- ❖ Provincial Legislative Councils were further expanded—70% of the members were to be elected.
- ❖ The Central legislature was made bicameral.
- ❖ The Communal Representation was further extended to including Sikhs, Europeans and Anglo-Indians.

VI Government of India Act 1935

- ❖ Diarchy was abolished
- ❖ It provided All India federation
- ❖ Introduced Bicameralism
- ❖ Establishment of Reserve Bank of India
- ❖ It provided establishment of federal Public service Commission
- ❖ The powers were divided between the center and the provinces
- ❖ Burma was separated from India
- ❖ The Indian council was abolished
- ❖ A Federal Court was established

Indian Independent Act 1947

June 3 plan

Mountbatten plan also known as the June 3 plan was final plan for Indian Independence. In this plan include the Principles of partition, autonomy, sovereignty to both India and Pakistan, and the right to make their own Constitution. Both the Indian National Congress and Muslim league accepted this Plan The Independence Act of 1947.

Indian Independent act 1947 was enacted by the British Parliament and proclaimed India to be a free and independent nation. The act partitioned India into two sovereign nations India and Pakistan. The Act obtained Royal Assent on July 18, 1947. On August 15, 1947 India and Pakistan were formed.

MAKING OF INDIAN CONSTITUTION

The idea of Indian constitution was given by M.N.Roy, the present Indian constitution was framed by the Constituent assembly of India set up under Cabinet Mission Plan of 1946.

CONSTITUTENT ASSEMBLY:

Section 8 of the Indian Independent Act 1948 established Constituent Assembly. The assembly consists of 389 members. Which 292 were elected from province While 93 members from princely states. 4 chief Commissioners.

- B.N.Rao was appointed the Constitutional Advisor of the Assembly.
 - The First meeting of the Constituent assembly took place on December 9, 1946.
 - Dr. Sachidanda Sinha as its interim president.
 - Dr. Rajendra Prasad was elected as the president on December 11, 1946
 - The constituent assembly had **13 Committees for framing the constitution.**
- Some Important Committees

Name of the Committee	Chairman
Union power Committee	Jawaharlal Nehru
Union constitution committee	Jawaharlal Nehru
Provincial Constitution Committee	Sardar Patel
Drafting Committee	Dr. B. R. Ambedkar
Fundamental Rights Committee	Sardar Patel
Rules and Procedure Committee	Dr. Rajendra Prasad
States Committee	Jawaharlal Nehru
Steering Committee	Dr. Rajendra Prasad

Flag Committee	Dr.Rajendraprasad
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All the Committee submitted their reports which were widely discussed by Constituent Assembly. The Drafting Committee prepared the draft of the Constitution. It was finally passed and accepted on 26th November, 1949. The Constitution was Adopted on 26th November, 1949.

Which came into force on 26, Jan 1950. It contains A Preamble, 395 Articles, 8 Schedules,

DRAFTING COMMITTEE

The Drafting committee played pivotal role in drafting the constitution and also in passage of the Constitution in the assembly. The drafting committee was setup on 29th August 1947 under the Chairmanship of Dr.B.R.Ambedkar to prepare a Draft Constitution for India.

Members of Drafting Committee

1. Dr.B.R.Ambedkar – Chairman
2. N.GopalaswamiAyyangar
3. AlladikrishnaswamiIyer
4. K.M.Munshi
5. SyyedmuhammedSaadulah
6. N.MadhavaRao
7. D.P.Khaitan

- ❖ The committee took 141 days to draft the constitution.
- ❖ Dr.B.R.Ambedkar introduced the final draft of the Constitution in the Assembly on November 4, 1948.
- ❖ The original Indian Constitution was handwritten by PremBehariNarainRaizada by Flowing Italic style.
- ❖ The famous painter Nandalal Bose designed the borders of Indian Constitution.

SOURCES OF INDIAN CONSTITUTION

The Sources of Indian Constitution which were more responsible for influencing the framing of the Constitution of India. The fathers of constitution filtered through top constitution of the world and adopted those features which they considered suitable to the requirements of the Nations.

Nearly 75% of the Constitution can be said to be a reproduction of the Government of India Act.1935 with suitable adoption and modification.

Major sources of Indian Constitution

S.No	Name of the Constitution	Features
1	Government of India Act 1935	<ul style="list-style-type: none"> ❖ Administrative details ❖ Office Governor ❖ Judiciary ❖ PublicServiceCommission
2	British Constitution	<ul style="list-style-type: none"> ❖ Parliamentary form of Government ❖ Rule of Law ❖ Writs ❖ Lawmaking process ❖ Institution of Speaker and his role ❖ Nominal Head ❖ Cabinet system ❖ Post of Prime Minister ❖ Single Citizenship ❖ Council of Minister ❖ Bicameral system
3	Constitution of the United states	<ul style="list-style-type: none"> ❖ The Preamble ❖ Fundamental Rights ❖ Written Constitution ❖ Vice president ❖ Electoral college ❖ Supreme Court ❖ Judicial review
4	Irish Constitution (Ireland)	<ul style="list-style-type: none"> ❖ Concept of Directive principle of State Policy ❖ Nomination of members of Rajya Sabha ❖ Method of Election of President
5	Australian Constitution	<ul style="list-style-type: none"> ❖ Concurrent List ❖ Provisions of trade and commerce
6	French Constitution	<ul style="list-style-type: none"> ❖ Provisions of Republic ❖ Equality and Fraternity in the preamble
7	Constitution of South Africa	<ul style="list-style-type: none"> ❖ Procedure for Constitutional Amendment
8	Constitution of USSR	<ul style="list-style-type: none"> ❖ Fundamental Duties ❖ Five year planning
9	Constitution of Germany	<ul style="list-style-type: none"> ❖ Provisions of Emergency
10	Constitution of Canada	<ul style="list-style-type: none"> ❖ Federal system
11	Constitution of Japan	<ul style="list-style-type: none"> ❖ Procedure Established by Law

UNIT-II

SALIENT FEATURES OF INDIAN CONSTITUTION

The Indian Constitution opens with preamble. The Constitution's aims, goals, and fundamental precepts are outlined in the Preamble. These goals, which follow from the Preamble, have influenced the key elements of the Constitution both directly and indirectly.

According to the requirements of the nation, our constitution has incorporated the best elements of the majority of the major international constitutions. Despite including elements from nearly every constitution in the world, India's constitution stands out from those of other nations due to a number of key characteristics

SALIENT FEATURES OF INDIAN CONSTITUTION

- **Longest Written Constitution**
- **Drawn from Various Sources**
- **Blend of Rigidity and Flexibility**
- **Federal System**
- **Parliamentary Form of Government**
- **Synthesis of Parliamentary Sovereignty and Judicial Supremacy**
- **Rule of Law**
- **Integrated and Independent Judiciary**
- **Fundamental Rights**
- **Directive Principles of State Policy**
- **Fundamental Duties**
- **Indian Secularism**
- **Universal Adult Franchise**
- **Single Citizenship**
- **Independent Bodies**
- **Emergency Provisions**
- **Local Government System**

Longthiest Written Constitution

The Indian Constitution is one of the lengthiest detailed constitutions in the world. There are 12 schedules and 448 articles in our Constitution. The Indian Constitution has incorporated various articles by taking inspiration from the various constitutions around the world

Drawn from Various Sources

Dr.B.R. Ambedkar, who was the major contributor in the drafting of the Indian constitution, took help from multiple sources. The basic structure of the constitution is taken from the Government of India Act 1935. The article of Fundamental rights is taken from the American Constitution. Directive Principles are taken from the Irish Constitution. Cabinet form of Government is sourced from British Constitution. Apart from these, there are many provisions added from the constitution of Canada, Germany, France, and USSR. This is the reason that the Indian Constitution is considered unique because it is sourced from major constitutions in the world and consolidated as one with some modifications to suit Indian needs and requirements

Blend of Rigidity and Flexibility

There are two types of constitutions: stiff and flexible. A rigid constitution, like the American Constitution, is one that must be amended through a certain process. A flexible constitution, like the British Constitution for instance, is one that can be changed in the same way that regular laws are produced. The Indian Constitution is a special illustration of how rigidity and flexibility may coexist. A constitution's amendment process determines whether it is rigid or flexible.

Federal System

A federal structure of governance is established under the Indian Constitution. Every characteristic of a federation is present, including two governments, a division of powers, a written constitution, and the supremacy of the Constitution, its rigour, an independent judiciary, and bicameralism. Has alternately defined the Indian Constitution as “federal in form but unitary in spirit” and “quasi-federal”.

Parliamentary Form of Government

The British Parliamentary System of Government has been chosen by the Indian Constitution above the American Presidential System of Government. The presidential system is founded on the notion of the separation of powers between the two organs, whereas the parliamentary system is based on the idea of cooperation and coordination between the legislative and executive organs. The Westminster model of governance, responsible government, and cabinet government are other names for the parliamentary system. The parliamentary system is established by the Constitution both at the Centre and in the States. It is known as a “Prime Ministerial Government” since the prime minister’s position has grown so important in parliamentary systems.

Synthesis of Parliamentary Sovereignty and Judicial Supremacy

The British Parliament is linked to the theory of parliamentary sovereignty, while the American Supreme Court is linked to the doctrine of judicial supremacy. The Indian Supreme Court has less judicial review authority than the US Supreme Court, much as how the Indian parliamentary system varies from the British one. This is so that it can be contrasted with the Indian Constitution’s “procedure established by law” and the American Constitution’s guarantee of “due process of law” (Article 21).

Rule of Law

The Constitution of India has defined and declared the common goals for its citizens as “To secure to all citizens of India, Justice – Social, Political and Economic. The eternal value of constitutionalism is the Rule of Law which has three facets i.e. “Rule by law, Rule under law and Rule according to law”. Rule of Law embodies the doctrine of Supremacy of law. It is a basic and fundamental necessity for a disciplined and organised society.

Integrated and Independent Judiciary

A single, integrated judicial system exists in India. The Indian Constitution also establishes an independent judiciary by preventing the legislature and government from having any influence over it. The supreme court of the legal system is known as the Supreme Court. The state-level High Courts are superior courts to the Supreme Court. District courts and other lower courts fall within the high court’s hierarchy of subordinate courts. As the highest court of appeal, the protector of people’ basic rights, and steward of the Constitution,

the Supreme Court is a federal court. As a result, the Constitution contains a number of safeguards that guarantee its independence

Fundamental Rights

Six fundamental rights are guaranteed to all citizens of India under Part - III of the constitution. One of the key components of the Indian Constitution is the guarantee of fundamental rights. The fundamental tenet of the Constitution is that everyone has a right to certain freedoms as a fellow human being, and that the exercise of those freedoms is independent of majority or minority opinion. Such rights cannot be revoked by a majority. The purpose of the fundamental rights is to further the notion of democratic democracy

Directive Principles of State Policy

The Directive Principles of State Policy are a “new aspect,” in Dr. B. R. Ambedkar’s words, of the Indian Constitution. They are listed in the Constitution’s Part- IV. For the sake of ensuring social and economic justice for our citizens, the Directive Principles were incorporated into our Constitution. According to Directive Principles, money will not be concentrated in the hands of a small number of people under India’s welfare state. They are inherently not justiciable. The Indian Constitution is established on the foundations of the balance between the Fundamental Rights and the Directive Principles.

Fundamental Duties

The fundamental obligations of citizens were not outlined in the original constitution. The Swaran Singh Committee’s suggestion led to the 42nd Amendment Act of 1976, which introduced Fundamental Duties to Part-IV A our Constitution. It outlines a list of ten Fundamental Duties that all Indian people must uphold. One more essential obligation was later added by the 86th Constitutional Amendment Act of 2002. While the duties are expectations placed on every citizen, the rights are offered to the people as guarantees.

Indian Secularism

India’s Constitution upholds a secular government. As a result, it does not support a specific religion as the state’s official religion in India. The idea seeks to create a secular state. This does not imply that the Indian government is hostile to religion. The Indian constitution exemplifies secularism, which is the practice of treating all religions equally or providing equal protection for all of them.

Universal Adult Franchise

One person, one vote is the foundation upon which Indian democracy is based. Elections are open to all Indian citizens who are 18 years old or older, regardless of caste, sex,

colour, religion, or status. The mechanism of universal adult franchise set forth in the Indian Constitution establishes political equality in India.

Single Citizenship

As is the case in the USA, citizens of federal states typically have dual citizenship. There is Single citizenship in India. It implies that every Indian is a citizen of India, regardless of where they were born or where they currently reside. He or she may be a resident of a Constituent State like Jharkhand, Uttaranchal, or Chhattisgarh, but they are not citizens of that state; instead, they are citizens of India. All Indian citizens have equal access to employment opportunities throughout the nation and to all of India's rights.

Independent Bodies

The Indian Constitution establishes a number of independent entities in addition to the legislative, executive, and judicial branches of the federal and state governments. The Constitution views them as the cornerstones of India's democratic system of government.

Emergency Provisions

The authors of the Constitution anticipated that there might be circumstances in which the government could not function as it does in normal circumstances. The Constitution elaborates on emergency provisions to deal with such circumstances. During a crisis, the state governments take complete control of the federal government, which gains absolute authority.

Local Government System

The Indian Constitution originally called for a dual polity and included clauses describing the structure and authority of the Centre and the States. Later, a third level of governance (local government), which is absent from all other international constitutions, was added by the 73rd and 74th Constitutional Amendment Acts (1992). By adding a new Part IX and a new schedule 11 to the Constitution, the 73rd Amendment Act of 1992 gave the panchayats (rural local governments) formal status. Similar to this, the 74th Amendment Act of 1992 provided urban local governments (municipalities) official recognition by introducing a new Part IX-A and schedule 12 to the Constitution.

THE PREAMBLE

- ✓ The preamble means Introduction or Preface of the constitution
- ✓ **The objective resolution proposed by Jawaharlal Nehru and passed by constituent Assembly**
- ✓ **Idea of Preamble was borrowed from the Constitution of United states of America**
- ✓ **The Words ‘SOCIALIST’, ‘SECULAR’ and INTERGRITY were added by the 42nd Constitutional amendment in 1976.**
- ✓ The preamble reflects the dreams and aspirations of the founding fathers of the Constitution
- ✓ It provided a key to the understanding and interpretation of the Constitution.

FEDERAL SYSTEM

- ❖ A Federal system is one in which powers are divided between the center and State Government by the Constitution itself and both operate in their respective Jurisdictions.
- ❖ Federalism in essence is a dual Government system including the Centre and states.
- ❖ Federalism is one of the pillars of the Basic Structure of the Constitution

The Federal features of the Indian constitution

- Written Constitution
- Rigidity of the Constitution
- Bicameralism
- Dual Polity
- Divisions of powers
- Supremacy of the Constitution
- Independent Judiciary
- Decentralization of Powers

CITIZENSHIP

- ❖ The Word Citizen is derived from the **Latin term Civics**. It means residents of a City/State
- ❖ The constitution of India provides for a single and uniform Citizenship for the whole of India
- ❖ **Part-II** of the Indian Constitution deals with Citizenship
- ❖ **Articles 5-11** describes Citizenship provisions

ACQUISITION OF CITIZENSHIP

A citizenship is a person who enjoys full membership of the Country in which he lives. The Citizenship Act of 1955 provides for 5 ways of acquiring Citizenship as Mentioned below

- **By Birth**
- **By Descent**
- **By Registration**
- **By Naturalization**

- **By Incorporation of Territory**

- **By Birth**

Every person born in India on or after 26th January, 1950, shall be a citizen of India by Birth, Irrespective of the Nationality of his parents

- **By Descent**

A person born outside India on or after 26th January, 1950, but before 10th December, 1992 is Citizenship of India by descent if their father was a citizenship of India at the Time of their Birth.

- **By Registration**

The Central Government may on an application register as a citizen of India any person, if he belonged to any of the following categories

- ❖ A Person of India origin, residing in India for 7 years.
- ❖ A person of Indian origin, who is ordinarily resident in any country or place outside of undivided India.
- ❖ A person, who married to citizenship of India and resident of India for 7 years.

- **By Naturalization**

It can be acquired by a foreigner, who has resided in India for 12 years.

- **By Incorporation of Territory (Foreign Territory)**

- ❖ If any new territory became a part of India the Government of India specifies the people of that territory to be Citizen of India

FUNDAMENTAL RIGHTS

- In 1931, The Indian National Congress at its Karachi session presided over by Sadar Patel had adopted a resolution on Fundamental Rights.
- The Rights are claims of Social life and they help individuals to develop their personality some of the fundamental rights provided protection only against the state action.
- The fundamental Rights are guaranteed and protected by the Constitution to all persons without any discrimination.
- **The Fundamental Rights have been described in Articles 12-35, Part III of the Indian Constitution which is also called the Magna Carta of the Indian constitution.**
- **Originally Fundamental Rights were seven in numbers**
 - 1) Right to Equality (Article 14-18)
 - 2) Right to Freedom (Article 19-22)
 - 3) Right to against Exploitation (Article 23-24)
 - 4) Right to freedom of Religion (Article 25-28)
 - 5) Cultural and Educational Rights (Article 29-30)
 - 6) Right to property

7) Right to constitutional remedies (Article 32)

- **Right to Property (Article-31) was deleted from the list of Fundamental Rights by the 44th Constitutional Amendment Act 1976.**
- **It made a legal right under Article 300 A in part XII of the constitution**
- **Dr .B.R.Ambedkar said article 32 is the heart and Soul of the constitution.**

DIRECTIVE PRINCIPALS OF STATE POLICY

- ❖ The Directive Principals of State Policy are enumerated in part IV of the Indian constitution from Articles-36-51
- ❖ Dr.B.RAmbedkar described these Principles as **Novel features of the Constitution**
- ❖ The Directive Principals of State Policy along with Fundamental Rights contains the Philosophy of the constitution and the Soul of the Constitution
- ❖ The Directive Principals of State Policy is greatly influenced by the Directive Principles of Social Policy

Important features of Directive Principles of state Policy

These are Ideals that the state should keep in mind while formulating policies and enacting laws

DPSP help the state while formulating Economic, Social & Political program

DPSP help the state to establish Economic & Social democracy

These are non – justiciable but help courts in examining & determining the validity of Law

Classification of DPSP

Directive Principles of State Policy are not formally classified under our Constitution; however, for better understanding and based on content and direction, they can be classified into three categories, namely:

- ❖ Socialistic Principles
- ❖ Gandhian Principles
- ❖ Liberal-Intellectual Principles

Socialistic Principles

These are the principles with the aim and goal to provide socio-economic justice in society and to set the path towards the welfare state.

These principles explore the school of socialism and lay down the structure of a democratic socialist state.

The basic aim is to minimize inequalities in income, status, facilities & opportunities (**Article 38**)

They direct the state through various Articles some of them being, Article 39 A- Promote equal Justice and free legal aid to the poor;

Article 42- Make provision for just and humane conditions of work and maternity relief;

Article 47- Raise the level of nutrition and the standard of living of people and to improve public health; along with numerous other articles such as Article 38, Article 39, Article 41, **Article 43 and Article 43A.**

Gandhian Principles

Based on Gandhian ideology these principles represent the program of reconstruction Enunciated by Mahatma Gandhi during the national movement.

To fulfil the dreams of Mahatma Gandhi, some of his ideas were included in Directive Principles of State Policy, and they direct the State through Articles such as **Article 43-**

Promote cottage industries on an individual or corporate basis in rural areas;

Article 47- Prohibit the consumption of intoxicating drinks and drugs which are injurious to health;

Article 48- Prohibit the slaughter of cows, calves, and other draught cattle and to improve their breeds; Article 40, Article 43B, and Article 46.

Liberal-Intellectual Principles

These principles reflect the **ideology of liberalism.**

Under various articles, they direct the state to achieve various ideals as seen in Article 44- Secure for all citizens a uniform civil code throughout the country;

Article 45- Provide early childhood care and education for all children until they complete the age of six years;

Article 48- Organise agriculture and animal husbandry on modern and scientific lines, **Article 48A, Article 49, Article 50 and Article 51.**

Conclusion

The goal of the Directive Principles of State Policy is to establish social and economic conditions that allow citizens to live happy life. They also want to create a welfare state to promote social and economic democracy. Though the Directive Principles are non-justiciable rights of the people but essential to the country's government, it is the State's responsibility to apply them in drafting legislation, as stated in Article 37. Furthermore, these principles should guide the executive agencies of the union and states. Even the judiciary must consider them while making decisions.

FUNDAMENTAL DUTIES

Fundamental duties are the moral and civic obligations that all citizens of a nation have. The list of fundamental **duties provided in Part IV-A of the Constitution under Article 51A** of India to inspire patriotism and strengthen India's unity. The fundamental duties of citizens were added in the Constitution on **the recommendations of the Swaran Singh Committee.** In 2002, one more Fundamental Duties were added by 86th Amendment Act in 2002. The Fundamental Duties in the Indian Constitution are inspired by the Constitution of the erstwhile USSR.

LIST OF FUNDAMENTAL DUTIES

NO	ARTICLE	PROVISIONS
1	51 A	To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.
2	51 A	To cherish and follow the noble ideals which inspired our national struggle for freedom.
3	51 A	To uphold and protect the sovereignty, unity, and integrity of India
4	51 A	To defend the country and render national services when called upon to do so.
5	51 A	To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, and regional or sectional diversities; to renounce practices derogatory to the dignity of women.
6	51 A	To value and preserve the rich heritage of our composite culture.
7	51 A	To value, protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.
8	51 A	To develop the scientific temper, humanism, and spirit of inquiry and reform.
9	51 A	To safeguard public property and to abjure violence.
10	51 A	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.
11	51 A	Duty of the parent or guardian to provide opportunities for education to his child, as the case may be, between the age of six and fourteen years (added by 86th Amendment Act, 2002).

Significance of Fundamental Duties

- ❖ The significance of fundamental duties is that they define the moral obligations of all
- ❖ Citizens to contribute to the promotion of patriotism and the preservation of India's unity.
- ❖ Serve 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 their fellow citizens.
- ❖ Serve as a warning against anti-national and antisocial activities.

- ❖ Serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them.

- ❖ Help the courts in examining and determining the constitutional validity of a law.
- ❖ They are enforceable by law. Hence, the Parliament can provide for the imposition of appropriate penalties or punishment for failure to fulfil any of them.

CONSTITUTIONAL AMENDMENT

Introduction

'Constitution Amendment Bill' refers to bill that seek to change parts of the Constitution. Part XX (Article 368) of the Indian Constitution lays forth the method for amending the constitution.

Types of Majority

- ❖ Absolute Majority- More than 50% of the House's total strength.
- ❖ Simple Majority – the majority of more than 50% of those present and voting.
- ❖ Effective Majority– Signifies a majority of the House's Effective Strength, (Effective Strength=Total Strength- Number of Vacancies)
- ❖ Special Majority-majority of two third members present and voting.

Ex: Strength of Lok Sabha is 545 and Rajya sabha is 245

Absolute Majority: will be in case of LS-273 and RS-123.

Simple Majority: if 500 members are present in LS and 150 in RS then simple majority will be 251 and 75 respectively.

Effective Majority: If there are vacancies formed in house due to Death, Disqualification, Resignation of the members then his/her seat becomes vacant. If 8 such seats are vacant in LS and 5 seats in RS, then Effective strength would be $545-8=537$ in LS and 240 in RS respectively.

Therefore the effective majority in LS will be $537/2=269$ and 121 in RS.

Special Majority under Article 368 plus State ratification

A majority of 2/3rd members present and voting supported by more than 50% of the state legislatures by a simple majority.

Cases in which such a majority is used

To pass a constitutional amendment bill that alters federalism, such as the position of High court Judges.

Conclusion

Recently The Constitution (One Hundred and Twenty-Seventh Amendment) Bill, 2021 to restore the powers of the states to make their own OBC lists was passed by Parliament. The provisions governing the amendment procedure are too vague. As a result, they leave a large margin for referral to the judiciary. Despite these flaws, it is difficult to deny that the procedure has proven to be straightforward and easy, and that it has succeeded in addressing society's changing demands and situations. The procedure is neither too flexible to allow the ruling parties to change it according to their desires, nor too rigorous to prevent it from responding to changing demands.

UNIT-III

UNION EXECUTIVE

INTRODUCTION

Chapter I of Part V of the Indian Constitution (Articles 52 to 78) deals with the Union Executive. Role of Union Executive is of immense Significance in the Indian Parliamentary system.

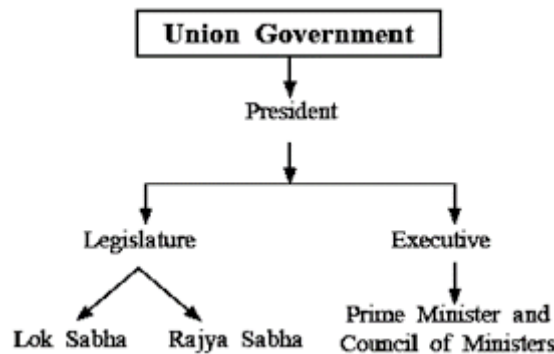
The Union Executive

The Union Executive consists of the President, along with Vice-President, Council of Ministers, and Attorney-General.

The President at the Union constitutes as the head of the state in whose name the executive powers are vested but who do not exercise them.

They constitute the nominal or titular executive (de jure head).

The Prime Minister and his council of ministers at the union level exercise all the power vested in the nominal executive. They constitute the real executive (de facto head).



THE PRESIDENT OF INDIA

INTRODUCTION

The President of India is both the head of state and the country's first citizen. According to "Article 52" of the Indian Constitution there shall be a President of India. The President, along with the Vice President, Prime Minister, Council of Ministers, and Attorney General

The President - Constitutional Provisions

The President at the union and the Governor at the state level constitute the head of the state in whose name the executive powers are vested but who do not exercise them.

They constitute the nominal or titular executive (de jure head).

The Indian Constitution under Article 53, vests the executive power of the union in the President and shall be exercised by him either directly or through officers subordinates to him in accordance with the constitution.

He is the Supreme Commander of the Armed Forces.

He is the 1st citizen of India and occupies the 1st position under the warrant of precedence. All the executive actions are taken in his name.

Qualification for election as a President

- ❖ He must be a citizen of India.
- ❖ He must have completed the age of 35 years.
- ❖ He must not hold office of profit under the Government of India or the Government of any States or under any local or other authority subject to control of any of the said Governments.
- ❖ He must be qualified for election as a member of House of the People i.e., Lok Sabha.

Oath of the President

- ❖ The President takes oath in the presence of the Chief Justice of India “to preserve, protect and defend the Constitution and law”.

Term of Office of President

- ❖ The President shall hold office for a term of 5 years from the date on which he enters upon his office.
- ❖ Even after the expiry of his term, he shall continue in the office until his successor enters upon his office.
- ❖ He is also eligible for re-election any number of times.
- ❖ The President may however resign his office before the expiry of his normal term of 5 years by writing to the Vice-President.
- ❖ Further he may be removed from office for violation of the Constitution by the process of impeachment.

❖ POWER AND FUNCTIONS OF PRESIDENT OF INDIA

Administrative Powers

- ❖ The President can make rules specifying the manner in which the orders and the other instruments which are made and executed in his name shall be authenticated.
- ❖ The President appoints:
 - ❖ The Prime Minister and other Ministers.
 - ❖ The Attorney-General of India determines his remuneration.
 - ❖ The Governors of the States.
 - ❖ Comptroller and Auditor General of India, Chief Election Commissioner and other Election Commissioners, Chairman and members of the Union Public Service Commission, and Finance Commission of India chairman and members Judges of High Courts and Supreme Court.
 - ❖ National Commissions of Scheduled Castes, Scheduled Tribes, Other Backward Classes as well as a commission to report on the administration of the Scheduled Areas, a commission on official Language and Special officer for Linguistic minorities.
 - ❖ He can declare any area as a scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.
 - ❖ He appoints an inter-state council to centre-state and inter-state cooperation.
- ❖ The President shall also have the power to remove:
 - ❖ His Ministers, individually.
 - ❖ Attorney-General of India.
 - ❖ The Governors of the States.
 - ❖ The Chairman or a Member of the Public Service Commission of the Union or of a State, on the report of the Supreme Court.

Legislative Powers

- ❖ The President is an integral part of the Parliament, and enjoys the following legislative powers.
- ❖ The President summons the House of Parliament at least twice a year or prorogues either House of Parliament and dissolves the Lok Sabha. He may summon both the Houses to meet in a joint sitting for debating or voting on a bill in case of deadlock.
- ❖ He may address either house separately or both Houses jointly. At the commencement of the first session after every general election, the President delivers an address.
- ❖ He appoints speaker, deputy speaker of Lok Sabha, and chairman/deputy chairman of Rajya Sabha when the seats fall vacant.
- ❖ He nominated 12 members of the Rajya Sabha and two members to the Lok Sabha from the Anglo-Indian Community. However, in January 2020 the Anglo-Indian reserved seat in the Parliament and State Legislature of India was abolished by the 104th Constitutional Amendment Act, 2019.
- ❖ Every Bill passed by the Parliament must receive the President's assent before it can become an Act. The President may give his assent or withhold his assent or return it for reconsideration by Parliament with his own suggestion, a Bill other than a Money or Constitutional Amendment Bill. Parliament may accept his suggestion or reject it but if it is again sent for the President's assent now the President has to give his assent.
- ❖ The President makes certain reports and statements to be laid before the Parliament.
- ❖ The Annual Financial Statement and the Supplementary Statement.
- ❖ The report of Comptroller and Auditor General relating to the accounts of the Government of India.
- ❖ Recommendation made by the Finance Commission.
- ❖ Report of the Union Public Service Commission, explaining the reasons where any advice of the Commission has not been accepted.
- ❖ The report of National Commissions of Scheduled Castes and Scheduled Tribes.
- ❖ The report of a Special officer for Linguistic minorities.
- ❖ The report of the commission on the backward classes.
- ❖ Judicial Powers
- ❖ The President has the power to appoint the Judges of the Supreme Court and High Courts. Under the Judicial powers, the President has what is called pardoning power. The power of granting pardon to persons, who have been tried and convicted of any offence.
- ❖ Where the punishment or sentence is by a court-martial.
- ❖ Where the punishment is for an offence against Union law.
- ❖ In all cases where a person is sentenced to death.
- ❖ The pardoning power to exercise on the aid and advice of the Council of Ministers. There are no specific guidelines to the President on the exercise of his pardoning powers.

Emergency Powers

- ❖ The President exercises certain extraordinary power to deal with an emergency situation which are as follows:
- ❖ National Emergency (Article 352).
- ❖ President Rule (Article 356).
- ❖ Financial Emergency (Article 360).

Financial Powers

- ❖ He has control over the Contingency Fund of India to meet unforeseen expenses like flood, drought, war etc.
- ❖ His prior recommendation is a must in the introduction of the money bill and financial bill in the Parliament.
- ❖ His recommendation is a prerequisite to make a demand for grants.
- ❖ The President of India constitutes the Finance Commission after every five years.
- ❖ He also places before the Parliament the report of Comptroller and Auditor General relating to the accounts of the Government of India and recommendations made by the Finance Commission.

Diplomatic Powers

- ❖ International Treaties and agreements that are approved by the Parliament are negotiated and concluded in the name of the President.
- ❖ He is the representative of India in international forums and affairs.
- ❖ He sends and receives ambassadors and other diplomatic representatives.

Military Powers

- ❖ He is the Supreme Commander of the Armed Forces.
- ❖ He has the power to declare war and peace but his military power is subject to the regulation of law.
- ❖ He appoints Chief of the Army, Chief of the Navy and Chief of the Air Force.

Conclusion

The position of President is extremely significant, as the roles are critical to maintaining the nation's political unity and ensuring constitutional powers. The President cannot exercise his executive power without aid and advice from the Council of Ministers. However, the Office's significance is significantly larger than that, and it cannot be compared to that of any other high office or function.

VICE PRESIDENT

INTRODUCTION

- ❖ Article -63 of Indian Constitution described The office of Vice President of India..
- ❖ The second-highest constitutional office in India – Rank only next to the office of President of India in order of precedence.
- ❖ VP is also ex-officio chairperson of Rajya Sabha (Art.64)
- ❖ Vice President is a member of neither Lok Sabha nor Rajya Sabha.
- ❖ The original Constitution provided that the Vice- President would be elected by the two Houses of Parliament assembled at a joint meeting. This cumbersome procedure was done away by the 11th Constitutional Amendment Act of 1961.

ELECTION OF VICE PRESIDENT

- ❖ The vice-President is elected by the method of indirect election (Like president) and not directly by the people.
- ❖ He is elected by the members of an electoral college consisting of the members of both Houses of Parliament

QUALIFICATIONS

- ❖ He should be a citizen of India.
- ❖ He should have completed 35 years of age.
- ❖ He should be qualified for election as a member of the Rajya Sabha.
- ❖ He should not hold any office of profit under the Union government or any state government or any local authority or any other public authority.
- ❖ The nomination of a candidate for election to the office of Vice-President must be subscribed by at least 20 electors (Members of Parliament) as proposers and 20 electors as seconders. (50 proposers and seconders in case of President).

OATH

- ❖ Before entering upon his office, the Vice-President has to make and subscribe to an oath or affirmation.
- ❖ The oath of office to the Vice-President is administered by the President or some person appointed in that behalf by him.

TERM OF OFFICE

- ❖ The Vice-President holds office for a term of five years from the date on which he enters his office.
- ❖ He can resign from his office at any time by addressing the resignation letter to the President.
- ❖ The Vice-President can hold office beyond his term of five years until his successor assumes charge.
- ❖ He is also eligible for re-election to that office for any number of terms.

POWER AND FUNCTIONS OF THE VICE-PRESIDENT

- ❖ The vice-President acts as the ex-officio chairman of the Rajya Sabha and his powers and functions are similar to those of the speaker of the Lok Sabha.
- ❖ In the event of the president's inability to work due to any reason or a vacancy in the office of the president due to any reason, he can act as the president. The office was created to maintain continuity in the Indian state; however, this is only for 6 months till the next president is elected.
- ❖ The Vice President while discharging duty as President should not preside over Rajya Sabha.

LOK SABHA

INTRODUCTION

Article 79 of the Indian Constitution describes The Parliament Consists of The President, Lok Sabha and Rajya Sabha. The Lok Sabha is the lower house of India's bicameral Parliament, or popular chamber/ House of the People, with the Rajya Sabha functioning as the upper house. The Lok Sabha is made of representatives of people elected by direct election on the basis of Universal Adult Suffrage. Members of Lok Sabha are referred to as MPs, or members of parliament. These members are elected from various union territories and states. Elections for Lok Sabha seats are conducted every five years.

QUALIFICATION TO BECOME A MEMBER OF LOK SABHA

Article 84 of the Constitution lays down the qualifications for membership of Parliament. A person to be qualified for the membership of the Lok Sabha should possess the following qualifications:

He must be a citizen of India and make and subscribe before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution;

He must be not less than 25 years of age;

He must possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

POWERS AND FUNCTIONS OF THE LOK SABHA

LEGISLATIVE POWERS:

- ❖ An ordinary bill can become law only after it has been passed by both the Houses of Parliament.
- ❖ Although ordinary bills can be introduced in either of the two houses of Parliament, almost 90% of the bills are actually introduced in the Lok Sabha.
- ❖ In case the Rajya Sabha rejects a bill passed by the Lok Sabha and returns it with or without some amendments, the Lok Sabha reconsiders the bill. If the Lok Sabha re-passes it and the Rajya Sabha is still not prepared to pass it, a deadlock occurs. If this deadlock remains unresolved for six months, the President summons a joint sitting of the two Houses as per the provisions of Article 108. The decision of the joint sitting is accepted by both the Houses.

EXECUTIVE POWERS

- ❖ Under Article 75(3), the Council of Ministers is collectively responsible before the Lok Sabha. The leader of the majority in the Lok Sabha becomes the Prime Minister. Most of the ministers are from the Lok Sabha.
- ❖ The ministers remain in office so long as they enjoy the confidence of the majority in the Lok Sabha. The Lok Sabha can remove the ministry from office by passing a vote of no-confidence against it under the procedure given under Rule 198 of the rules of procedure and conduct of the business of the Lok Sabha.
- ❖ The life and death of the Ministry depends upon the Lok Sabha. The Lok Sabha maintains continuous control over the Council of Ministers.
- ❖ MPs can ask questions from ministers about their policies and activities of the administration. They can criticize their policies. The right to ask questions flows from Article 75 of Indian constitution

FINANCIAL POWERS

- ❖ The Lok Sabha has vast financial powers. A money bill can be introduced only in the Lok Sabha as per the provisions given under Article 109. After having been passed by it, the money bill goes to the Rajya Sabha.

- ❖ In case of any dispute as to whether a particular bill is a money bill or not, the Speaker of the Lok Sabha gives the decision. His decision is final and it cannot be challenged in any court or even in the Rajya Sabha or the Lok Sabha.
- ❖ Thus, we can say that the Lok Sabha has the final control over the finances of the state. No tax can be levied or collected or changed or abolished without the approval of the Lok Sabha.
- ❖ The fiscal policies of the government cannot be implemented without the consent of the Lok Sabha.

JUDICIAL POWERS

- ❖ The Lok Sabha also performs some judicial functions. The impeachment proceedings mentioned under Article 61 can be taken up against the President either in the Lok Sabha or the Rajya Sabha. The President can be removed from office only when an impeachment resolution is adopted by each of the two Houses with a 2/3 majority of its members.
- ❖ The Lok Sabha also investigates the charges prepared by the Rajya Sabha against the Vice-President of India.
- ❖ The Lok Sabha and the Rajya Sabha can together pass a resolution for the removal of any judge of the Supreme Court or of a State High Court as per the provisions under Article 124 (4)
- ❖ Both the Houses can jointly pass a special address and present it to the President for the removal of some high officers of the state like the Attorney General, the Chief Election Commissioner and the Comptroller and Auditor General of India.
- ❖ Lok Sabha can also take action against any member or any citizen who is held to be guilty of committing contempt of the House.

ELECTORAL FUNCTIONS

- ❖ The Lok Sabha also performs some electoral functions. The elected members of the Lok Sabha take part in the election of the President.
- ❖ Members of the Lok Sabha and the Rajya Sabha together elect the Vice-President of India according to Article 66 of Indian Constitution. The members of the Lok Sabha also elect a Speaker and a Deputy Speaker from amongst themselves.

CONCLUSION

The Lok Sabha holds a significant role in parliament proceedings. The Lok Sabha has remained a vanguard for political and social principles, a melting pot of cultural diversity, despite the ups and downs of Indian politics. It is also a flag-bearer for the sovereign, socialist, secular, democratic republic of India, alongside the Rajya Sabha.

RAJYA SABHA

Rajya Sabha is the Upper House of Parliament, representing the Indian Union's states and union territories. It is sometimes referred to as the Second Chamber or the House of Elders. The Rajya Sabha is known as the Parliament's permanent House.

QUALIFICATION TO BECOME A MEMBER OF RAJYA SABHA

Article 84 of the Constitution lays down the qualifications for membership of Parliament. A person to be qualified for the membership of the Rajya Sabha should possess the following qualifications:

- ❖ He must be a citizen of India and make and subscribe before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution
- ❖ He must be not less than 30 years of age;
- ❖ He must possess such other qualifications as may be prescribed on that behalf by or under any law made by Parliament.

The Election of a member of Rajya Sabha

- ❖ The representatives of the States and of the Union Territories in the Rajya Sabha are elected by the method of indirect election.
- ❖ The representatives of each State and two Union territories are elected by the elected members of the Legislative Assembly of that State and by the members of the Electoral College for that Union Territory in accordance with the system of proportional representation by means of the single transferable vote.
- ❖ The Electoral College for the National Capital Territory of Delhi consists of the elected members of the Legislative Assembly of Delhi, and that for Puducherry consists of the elected members of the Puducherry Legislative Assembly.
- ❖ To win a Rajya Sabha seat, a candidate should get a required number of votes. That number is found out using the below formula. Required vote = Total number of votes / (Number of Rajya Sabha seats + 1) + 1.

Composition

- ❖ Composition/Strength Article 80 of the Constitution lays down the maximum strength of Rajya Sabha as 250, out of which 12 members are nominated by the President and 238 are representatives of the States and of the two Union Territories.
- ❖ The members nominated by the President are persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service.
- ❖ Allocation of Seats:- The Fourth Schedule to the Constitution provides for the allocation of seats to the States and Union Territories in the Rajya Sabha.

POWER AND FUNCTIONS OF RAJYA SABHA

- ❖ Rajya Sabha has a special role to play as a revising Chamber. As a Second Chamber, it has the mandate to secure a second sober look at hasty legislation.
- ❖ An analysis of the Bills revised by the Rajya Sabha would reveal that in a number of cases, Rajya Sabha had recommended changes in the Bills passed by Lok Sabha and those changes were, in fact, carried out eventually.

- ❖ Apart from the coordinate powers, it enjoys with the Lok Sabha, the Constitution vests some special powers in the Rajya Sabha to exercise its federal mandate as it represents States and Union territories in Parliament. Such special powers lend credence to its status as an Upper House vis-à-vis the Lok Sabha
- ❖ Creation Of All India Services
- ❖ Another exclusive power of the Rajya Sabha is contained in Article 312 of the Constitution wherein if the Rajya Sabha passes a resolution by a majority of not less than two-thirds of the members present and voting declaring that it is necessary or expedient in the national interest to create one or more All India Services common to the Union and the States, Parliament will have the power to create by law such services.

PRIME MINISTER

INTRODUCTION:

India adopted the parliamentary system of government based on the British pattern. by the Constitution president is the Nominal executive authority and Prime Minister is the real executive authority. In other words The President is the Head of the State while The Prime Minister is Head of the Government.

Appointment of the Prime Minister

- ❖ The Prime Minister is appointed by the president.
- ❖ Article 75 of the Indian Constitution the President appoints the Prime Minister.
- ❖ Normally the president has to invite leader of the Majority in the Lok Sabha to form Government

Minimum Qualifications for the Prime Minister

- ❖ He Must be a Citizen of India
- ❖ He must complete 25 years of age.
- ❖ He must be member of either Rajaya Sabha or Lok Sabha

Term of Prime Minister

- ❖ The term of the Prime Minister is not fixed and he hold the office during the pleasure of the President

POWER ANF FUNCTIONS OF PRIME MINISTER

The power and functions of prime minister can be studied under the following heads

IN RELATIONS TO THE COUNCIL OF MINISTERS

- ❖ He recommends persons who can be appointed as a Minister by president of India
- ❖ He allocates and reshuffles various portfolios among the Ministers
- ❖ He can ask a minister to resign or advise the president to dismiss him
- ❖ He preside over the meeting of the Council of Ministers and influences its decisions
- ❖ He guide ,directs, controls and coordinates the activities of all the members

IN RELATIONS WITH PRESIDENT

- ❖ The Prime Minister is principal channel of Communication between the president and council of ministers
- ❖ He communicates the president all the decisions of the Council of Ministers relating to Administration
He advise the president with regards to the appointment of important officials like Attorney–General, CAG, Chairman and members of UPSC, Election Commissioners, Chairman and members of Finance Commission and so on

IN RELATIONS WITH PARLIAMENT

- ❖ The Prime Minister is leader of the lower house
- ❖ He advises president with regard to summoning and proroguing of the sessions of the Parliament
- ❖ He recommend dissolution of the Lok Sabha to president at any time
- ❖ He recommend government policies on the floor of the house

OTHER POWERS AND FUNCTIONS

- ❖ Prime Minister is chairman of Planning Commission, NITI AAYOG, National Development Council, National Integration Council and Inter State Council.
- ❖ He plays a significant role in shaping the Foreign Policy of the Country
- ❖ He is the Chief Spoke person of the Union Government
- ❖ He is leader of party in power
- ❖ He is political head of the services

COUNCIL OF MINISTER

INTRODUCTION

The Council of Ministers consists of Three Categories namely

- ❖ Cabinet Ministers
- ❖ Minister of States
- ❖ Deputy Ministers

CABINET MINISTERS

The Cabinet ministers head the important ministers of the Central Ministers of the Government like Home, Defence, Finance, External Affairs, and so forth. The Cabinet ministers attend its meeting and play an important role in deciding policies.

POWER AND FUNCTIONS OF CABINET MINISTERS

- ❖ Cabinet ministers is highest decision –making authority in our politico-administration system
- ❖ It is the Chief policy formulating body of the Central Government.
- ❖ Supreme executive authority of the central Government
- ❖ Chief Coordinators of central Administration

- ❖ An advisory body to the president and its advise is binding on him
- ❖ Cabinet ministers acted as chief crisis manager and thus deals with all emergency situations
- ❖ It deals with all major legislative and financial matters.
- ❖ It deals with all foreign policies and foreign affairs.

UNIT-IV

STATE EXECUTIVE

INTRODUCTION

The State Executive is the part of the State Government which enforces the law and responsible for the Administration of the State. Part-VI of the Indian Constitution containing Articles 153 to 167 deals with the Government in the States. The States executive consists

- ❖ **The Governor**
- ❖ **The Chief Minister**
- ❖ **The Council of Ministers**
- ❖ **The Advocate General of the State.**

THE GOVERNOR

The Constitution of India provides for an office of the Governor in States. The Governor is the chief executive head of a state. But like the President of India. He is nominal executive head. The Governor also acts agent of the central Government and therefore the Office of the Governor has dual role.

QUALIFICATION

- ❖ He Must be Citizen of India
- ❖ Completed 35 years of age.
- ❖ Shouldn't be a member of either house of Parliament or the state legislature.
- ❖ Mustn't hold any office of Profit.

APPOINTMENT

- ❖ The Governor was appointed by **The President of India** on the recommendation of Union Council of Ministers.

OATH

- ❖ The Oath of Governor is administered by the **Chief Justice of the Concerned state High Court.**

TERM OF GOVERNOR'S OFFICE

- ❖ The Governor holds the office for a **term of 5 Years.**
- ❖ However his term is subjected to the pleasure of the President.

POWER AND FUNCTIONS OF GOVERNOR

The Governor possesses executive, Legislative, Financial, and Judicial powers. Analogous to the President of India. The Power and functions of the Governor can be studied under the following heads

- ❖ Executive Powers
- ❖ Legislative Powers
- ❖ Financial Powers
- ❖ Judicial Powers.

❖ Executive Powers

- ❖ All the executive actions of the government of a state are formally taken by his name
- ❖ The Governor can make rules specifying the manner in which the orders and other instrument made and executed in his name shall be authenticated
- ❖ The Governor appoints The Chief minister and other ministers
- ❖ He appoints the advocate-General of a state and determines his remuneration
- ❖ He appoints The State Election Commissioners
- ❖ He appoints The Chairman and other members of state Public Service Commission
- ❖ He can seek any information relating to the administration of the affairs of the state.
- ❖ He can recommend the imposition of constitutional emergency in a state to the President.
- ❖ He acts as the Chancellor of university in the state. He also appoints the Vice – Chancellors of universities in the state.

LEGISLATIVE POWERS

- ❖ The Governor is an integral part of state legislature
- ❖ He has the right of summoning or Proroguing the state legislature and dissolving the state legislature Assembly.
- ❖ He can address the state legislature at the commencement of the first session after each election and the first session of each year.
- ❖ He can send messages to the houses of the state legislature with respect to a bill pending in the legislature
- ❖ He can nominate one member to the State legislative assembly from Anglo-Indian Community.
- ❖ He lays the reports of the State Finance Commission ,The State Public Service Commission,

FINANCIAL POWERS

- ❖ The Governor sees the Annual financial Statement is laid before the state legislature
- ❖ Money bills can be introduce in the state legislature only with his prior recommendations
- ❖ No demand for a grand can be made except on his recommendation

- ❖ He Constitutes a Finance Commission in Every Five year to review the financial positions of the Panchayat and the Municipalities.
- ❖ He can make advances out of the Contingency Fund of the State to meet any unforeseen expenditure

JUDICIAL POWERS

- ❖ He consulted by the president while appointing the judge of the concerned state High Court
- ❖ He makes appointment, postings and promotions of a district judges in consultation with the state High Court.

Articles Related to Governor

S.No	Article No	Subject
1	Article-153	Governor of State
2	Article-154	Executivepower of state
3	Article-155	Appointment of Governor
4	Article-156	Term of Governor Office
5	Article-157	Qualification for Appointment as Governor
6	Article-158	Conditions of Governor's Office
7	Article-159	Oath or affirmation by the Governor

CHIEF MINISTER

INTRODUCTION

The Chief Minister's position in the state is comparable to that of the Prime Minister at the centre. The Governor appoints the Chief Minister, according to Article 164 of the Constitution. The state's Chief Minister is chosen from among the leaders of the parties that received the most votes in the assembly elections. The Governor has formal executive authority, while the Chief Minister has real executive authority.

The Chief Minister - Appointment

- ❖ The governor appoints the leader of the largest party of the house or leader chosen by the largest coalition to become the chief minister.
- ❖ If no party has a clear majority, the governor may use situational discretion. He may appoint a leader as chief minister and then demonstrate his majority on the floor of the parliament.
- ❖ If the CM does not become a member of either house within six months, he loses his position as CM. The governor appoints the CM, but the governor cannot dismiss him until he has a majority in the house.

Term of the Chief Minister

- ❖ The Chief Minister's term is not fixed, and he serves at the pleasure of the governor.
- ❖ He can't be dismissed by the governor as long as he has the support of the legislature's Majority.
- ❖ He can also be removed from office if the State Legislative Assembly passes a vote of no confidence in him.

Powers and Functions of the Chief Minister

- ❖ The governor only appoints ministers who have been proposed by the Chief Minister.
- ❖ He reassigns and reshuffles ministerial portfolios.
- ❖ Because the Chief Minister is the head of the council of ministers, he can bring the council of ministers to an end by quitting.
- ❖ The Chief Minister serves as a liaison between the Governor and the state council of ministers, as per the provisions given in Article 167 of the Constitution.
- ❖ The Governor is advised by the CM on the appointment of significant authorities such as the advocate general, chairman and members of the State Public Service Commission, and members of the State Election Commission, among others.
- ❖ He recommends dissolution of legislative assembly to the Governor.

Other functions performed by the Chief Minister

- ❖ He is the chairman of the State Planning Board.
- ❖ By rotation, he serves as vice-chairman of the concerned zonal council, holding office for one year at a time.
- ❖ He is a member of both the Prime Minister's Inter-State Council and the NITI Aayog Governing Council.
- ❖ He is the state government's chief spokesman.
- ❖ During times of crisis, he serves as the chief crisis management at the political level.
- ❖ As the state's leader, he interacts with diverse groups of people and gets memoranda from them on their difficulties, among other things.
- ❖ He is the services' political leader.
- ❖ He announces all of the policies on the floor of the house.

Conclusion

All decisions of the council of ministers relevant to state administration must be communicated to the Governor by the CM. The CM advises the Governor on significant appointments such as the Attorney General, the State Public Service Commission (Chairman and Members), and the State Election Commission, among others. As a result, it plays a critical role in the Indian Constitution and in the states.

THE STATE LEGISLATURE

INTRODUCTION

The State Legislature is addressed in Chapter III of Part VI of the Constitution. It is made up of the state legislature and the Governor. Part VI of the Constitution deals with the state legislature's organization, composition, duration, offices, processes, privileges, powers, and so on.

Composition of Houses

The composition of the Legislative Assemblies is discussed under Article 170 of the Indian Constitution. The purpose of this article is to highlight the organization of the state's Legislative Assemblies. Article 171 of the Indian Constitution, on the other hand, specifies the composition of the Legislative Council.

State Legislature – Legislative Assembly (Vidhan Sabha)

The Legislative Assembly is a legislature that is elected by the people and is the true seat of power in a state. An assembly's maximum strength must not exceed 500 members, and its minimum strength must not be less than 60 members. However, several states, such as Sikkim, Arunachal Pradesh, and Goa, have been allowed to have smaller legislative assemblies.

The designation of territorial constituencies should be done in such a way that the ratio between the population of each constituency and the number of seats awarded to it is consistent across the State.

Apart from these broad provisions, there are also specific provisions for the representation of SC and ST people. If the Governor believes the Anglo-Indian community is underrepresented in the assembly, he can designate one member from that community.

State Legislature – Legislative Council (Vidhan Parishad)

The composition of the Legislative Council is given in Article 171 of the Indian Constitution. The total members in the Legislative Council should not exceed one-third of the total members in the state Legislative Assembly.

There is another criterion for the composition of the Legislative Council. The number of members in the Legislative Council should not be less than 40 in any case. There is an exception in the composition of Vidhan Parishad.

State Legislature - Powers and Functions

Legislative Functions

The State Legislature can formulate laws on the subject of State and Concurrent Lists. However, in case there is any contradiction between the Union and State law, the law decided by the Parliament shall prevail.

Bills can be of two types- Ordinary Bills and Money Bills. Ordinary bills can be introduced in either of the two houses in case the State Legislature is bicameral; however, the Money Bill has to initially be introduced in the Vidhan Sabha.

In case of an Amendment to the Bill, it should be agreed by both houses. A bill that is pending in the Legislative Council of a particular State which is not passed by the Legislative Assembly shall not lapse upon the dissolution of the Legislative Assembly.

However, in case a bill is pending in the Legislative Assembly of a State, or if the bill passed by the Legislative Assembly is pending in the Legislative Council, the bill will lapse upon the dissolution of the Assembly. After the bill is passed by both the Houses, it is sent to the Governor for his approval.

In case the bill is sent back for reconsideration, this bill can be passed again by Legislature, and the Governor has to give its assent or reserve assent for the consideration of the President.

Financial Functions

The State Legislature has control over the finances of the State. A money bill can only be introduced in the Vidhan Sabha. The Money bill is inclusive of expenditure that is authorized by the government, imposition or abolition of taxes, borrowing, etc.

Money bills cannot be introduced by a private member. It has to be introduced by a Minister on the recommendations of the Governor. In case of any confusion with regards to the certification of that particular bill being a money bill, the Speaker of the Vidhan Sabha would determine the same.

This money bill after being passed by the Vidhan Sabha needs to be sent to the Vidhan Parishad. This bill needs to be returned within the time span of 14 days, with, or without any recommendations. The Vidhan Sabha may accept or reject these recommendations. After these stages are completed, this bill is sent to the Governor for his assent.

Conclusion

The State Legislative Assembly of any State possesses exclusive power to formulate laws in respect to any matters enlisted in List II (State List) and List III (Concurrent List) in the Seventh Schedule. However, the powers conferred upon the State Government with regards to control over the State and Concurrent lists are not completely justified.

ADMINISTRATION OF UNION TERRITORIES

INTRODUCTION

According to Article 1 of the Constitution, India's territory is divided into three categories:

1. States' Territories.
2. Union Territories.
3. Areas that the Government of India may acquire at any moment.

At present, there are twenty-eight States, eight Union Territories, and no acquired territories.

Union Territories

- 1) Andaman and Nicobar Islands
- 2) Chandigarh
- 3) Dadra and Nagar Haveli
- 4) Daman and Diu
- 5) Delhi
- 6) Jammu and Kashmir
- 7) Ladakh
- 8) Lakshadweep
- 9) Puducherry

Administration of Union Territories

- ❖ Part VIII (Articles 239 to 241) of the Constitution deals with the Union Territories.
- ❖ Even though all Union Territories belong to the same category, their administrative systems are not consistent.
- ❖ Every Union Territory is governed by the President of India, who appoints an administrator to do so.
- ❖ An administrator of a Union Territory, unlike a Governor, is an agent of the President rather than the head of State. The President can name an administrator; it could be a Lieutenant Governor, Chief Commissioner, or Administrator.
- ❖ In the cases of Delhi, Pondicherry, the Andaman and Nicobar Islands, Jammu and Kashmir, and Ladakh, it is currently Lieutenant Governor, and in the cases of Chandigarh, Dadra and Nagar Haveli, Daman and Diu, and Lakshadweep, it is Administrator.
- ❖ The President can also appoint the Governor of a State to serve as the administrator of a Union Territory bordering on it. The Governor is to operate independently of his council of ministers in this role. The Governor of Punjab is concurrently the Administrator of Chandigarh.
- ❖ A legislative assembly and a council of ministers led by a chief minister have been established in the Union Territories of Pondicherry (in 1963), Delhi (in 1992), and Jammu & Kashmir (in 2019). There are no comparable popular political institutions in the remaining five Union Territories.
- ❖ However, the establishment of such institutions in Union Territories does not negate the President's and Parliament supreme control over them. For the Union Territories, Parliament has the authority to enact legislation on any subject from the three lists (including the State List).
- ❖ Parliament's power extends even to Pondicherry, Delhi, and Jammu and Kashmir, all of which have their legislatures. This means that even after establishing a local legislature for the Union Territories, Parliament's legislative power over subjects on the State List remains unaffected.

- ❖ The legislative assembly of Pondicherry, on the other hand, has the power to enact legislation on any subject on the State and Concurrent Lists. Similarly, the legislative assembly of Delhi can make laws on any subject of the State List (except public order, police, and land) and the Concurrent List.
- ❖ Likewise, the legislative assembly of Jammu and Kashmir can make laws on any subject of the State List (except public order and police) and the Concurrent List.
- ❖ The President has the authority to issue regulations for the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, and Ladakh in order to maintain peace, progress, and good governance.
- ❖ The President can also legislate by rules in Puducherry, but only when the assembly is suspended or dissolved.
- ❖ A regulation issued by the President has the same force and effect as a law passed by Parliament, and it has the power to revoke or alter any law passed by Parliament that applies to these union territories.
- ❖ A High Court for a Union Territory can be established by Parliament, or it can be placed under the jurisdiction of the High Court of the neighbouring States.
- ❖ Delhi is the only Union Territory with its own High Court (since 1966).
- ❖ There are no separate provisions in the Constitution for the administration of acquired territories. However, the constitutional provisions governing the administration of union territories also apply to the territories acquired.

Conclusion

The existence of Union Territories, many critics have resolved India into a semi-federal nation, as the central and state governments each have their legislatures. Union Territories of India have special rights and status due to their constitutional formation and development. Thus, Union Territories are also important segments in the administrative jurisdiction of our Country.

UNIT-V

RIGHT TO INFORMATION ACT

The RTI Act provides for timely disclosure of information to citizens by Union and State Public Authorities. It seeks to empower citizens and promote accountability and transparency. Under the Act, Public Authorities are required to make disclosures on various aspects of their structure and functioning. This includes; (a) Disclosure on their organization; (b) Functions and structure; (c) Powers and duties of its officers and employees; (d) Financial information; (e) Procedure followed in the decision making process, including channels of supervision and accountability etc.

Importance of the RTI Act

Empowered people's voice: It has given ordinary citizens the confidence and the right to ask questions of Government authorities. The RTI Act has empowered people in containing corruption and bringing transparency and accountability in the working of the Government.

Strengthened Democracy: Every citizen has the right to claim information from public authorities under the Act. On the other hand, public authorities have an obligation to provide the sought information to the applicants (with certain exceptions). This has strengthened democracy through active participation of the public.

Transparency and Accountability: A large amount of information has to be placed in the public domain by ways of manuals prescribed under the Act. All the Government departments along with a number of bodies which receive substantial funding from the Government have been brought under the RTI. This has ushered in an era of transparency and accountability.

Public Interest Litigation (PIL)

Public Interest Litigation (PIL) means a legal tool to protect the interest of the general public. Public Interest Litigation aims to provide justice for minority or disadvantaged groups and individuals which raises issues of broad public concern. PIL is a way of using the law strategically to effect social change. Public Interest Litigation was first introduced in India as a result of the Supreme Court's judicial activism. The idea of PIL was invented by Justices V R Krishna Iyer and P N Bhagwati. For example, Public Interest Litigation can be filed for Bonded Labours, Atrocities on Women, Adulteration of Food, Environmental Pollution,

Concept

In simple terms, **Public Interest Litigation (PIL)** is the use of the law to promote human rights and equality, as well as to raise matters of widespread public concern. It assists disadvantaged and marginalized minorities in raising their voices in defense of their fundamental human rights.

It basically broadens the concept of "locus stand," or the right to file a lawsuit or appeal in court. The basic goal of PILs is to defend the fundamental rights of those who are unable to go to court on their own.

In most cases, it is the individual or entity who has been wronged who seeks justice in the courts. In PIL, however, anybody can submit a complaint or an appeal on behalf of the victims.

A PIL allows a socially conscious citizen or a public-spirited NGO to pursue a public cause by seeking judicial redress of a public injury.

There is no legislation or statute that defines it. It was formed in India by the judiciary when it chose to take up concerns of human rights violations in the 1970s and 1980s.

The PILs in India, as discussed, are mainly concerned with the public interest at large. In many years of its history, it has seen litigations on road safety, prisoner's rights, road safety, environment, etc. Broadly, the following are the cases in which PILs are filed:

Violation of the basic human rights of the poor (litigations for protection of fundamental rights, mainly Article 21)

Content and conduct of the government and its policymaking

Labour exploitation issues

Women rights

Caste and religious issues

Governance issues and the working of public bodies: Local, state, and the union

Environmental issues

The issues of culture and heritage

Other matters of public importance

Significance of PIL

The goal of PIL is to provide regular people with access to the courts in order to seek legal remedy.

PIL is a critical tool for social transformation, preserving the rule of law, and accelerating the balance of law and justice.

PILs were created with the intention of making justice more accessible to the poor and marginalized.

It is a critical tool for bringing human rights to those who have been denied them.

It ensures that everyone has access to justice. Anyone who is capable of doing so can file petitions on behalf of others who are unable or do not have the resources to do so.

It aids judicial oversight of state institutions such as prisons, asylums, and protective homes, among others.

It's a crucial tool for putting the concept of judicial review into practice. The introduction of PIL

ATTORNEY GENERAL

Attorney General (AG) is the highest law officer in the country and a part of the Union Executive. Article 76 of the Constitution has provided for the office of the Attorney General for India. The Attorney General (AG) is the principal lawyer who represents the Union Government in the Supreme Court of India. The Union executive consists of the President, the Vice-President, the Prime Minister, the council of ministers, and the attorney general of India.

○ **Attorney General of India**

- The Attorney General is the country's first law enforcement officer. As the Indian government's principal legal advisor, he advises the union government on all legal matters.
- Article 76 of the Indian Constitution established the office of Attorney General.
- In addition, the Attorney General serves as the Union Government's primary legal representation before the Indian Supreme Court.
- The Attorney-General of India has the power to speak in the Houses of Parliament or any committee thereof, but he does not have the right to vote, even if he is not a member of the Cabinet (as in England).
- The Attorney General enjoys the same privileges and immunities as a member of parliament.
- Corresponding Office of Attorney general in the States is Advocate General (Article 165)

Attorney General - Appointment and Term

- The Attorney General is appointed by the president.
- He/she must be a person who is qualified to be appointed a judge of the Supreme Court.
- In other words, he/she must be a citizen of India and must have been a judge of some high court for five years or an advocate of some high court for ten years, or an eminent jurist, in the opinion of the president.
- The term of office of the Attorney General is not fixed by the Constitution.
- Further, the Constitution does not contain the procedure and grounds for his/her removal.
- Thus, he/she holds office during the pleasure of the president which means that he may be removed by the president at any time.
- He/she may also quit his office by submitting his resignation to the president.
- The remuneration of the Attorney General is not fixed by the Constitution and receives such remuneration as the President may determine.

Duties and Functions

- To advise the Government of India upon such legal matters, which are referred by the President
- To perform such other duties of a legal character that is assigned to him/her by the president.
- To discharge the functions conferred by the Constitution or any other law.
- Apart from these, the president has assigned the following duties to the Attorney General:
 - To appear on behalf of the Government of India in all cases in the Supreme Court in which the Government of India is concerned.
 - To represent the Government of India in any reference made by the president to the Supreme Court under Article 143 of the Constitution.

- To appear (when required by the Government of India) in any high court in any case in which the Government of India is concerned.

Rights of Attorney General

- In the performance of his official duties, the Attorney General has the right of audience in all courts in the territory of India.
- Also, he/she has the right to speak and to take part in the proceedings of both the Houses of Parliament or their joint sitting and any committee of the Parliament of which he/she may be named a member, but without a right to vote.
- He/she enjoys all the privileges and immunities that are available to a Member of Parliament.

Comptroller and Auditor General of India

Comptroller and Auditor General of India is an independent authority under Article 148 of the Constitution of India. He is the Head of Indian Audit and Accounts. He is the guardian of the public purse and supervises the whole financial system of the country at both the Central and state levels. The CAG is one of the bulwarks of the democratic system of Government in India with the others being the Supreme Court, the Election Commission, and the Union Public Service Commission.

Comptroller and Auditor General

- Article 148 of the Indian Constitution establishes an independent office of the Comptroller and Auditor General of India (CAG).
- The President of India appoints the Comptroller and Auditor General by a warrant under his hand and seal.
- He is the head of the Indian Audit and Accounts Department and one of the foundations of India's democratic government system.
- Comptroller and Auditor General is the guardian of the public purse and oversees the whole financial system of the country at both the federal and state levels.
- His responsibility is to enforce the Indian Constitution and Parliamentary legislation governing financial management.

Comptroller and Auditor General- Appointment and Term

- The CAG is appointed by the President of India by a warrant under his hand and seal.
- Before taking over the office, the CAG makes and subscribed before the President an oath or affirmation
- Tenure: The CAG holds office for a period of six years or up to the age of 65 years, whichever is earlier.
- Resignation and Removal: He/she can resign any time from his office by addressing the resignation letter to the President and can also be removed by the President on the same grounds and in the same manner as a Judge of the Supreme Court.

- That is, he can be removed by the President on the basis of a resolution passed to the effect by both the Houses of Parliament with the special majority, either on the ground of proved misbehaviour or incapacity.

Power and Functions of Comptroller and Auditor General

- Article 149 of the Constitution authorizes the Parliament to prescribe the duties and powers of the CAG in relation to the accounts of the Union and of the states and of any other authority or body.
- In accordance with that, the CAG's (Duties, Powers and Conditions of Service) Act, 1971 was enacted by the Parliament.

The duties and functions of the CAG as laid down by the Parliament and the Constitution are:

- To audit the accounts related to all expenditure from the Consolidated Fund of India, consolidated fund of each state, and consolidated fund of each union territory with a Legislative Assembly.
- To audit all expenditure from the Contingency Fund of India and the Public Account of India and also the contingency fund of each state and the public account of each state.
- To audit all trading, manufacturing, profit and loss accounts, balance sheets, and other subsidiary accounts kept by any department of the Central Government and state governments.
- To audit the receipts and expenditure of the Centre and each state.
- To audit the receipts and expenditure of all bodies and authorities substantially financed from the Central or state revenues, Government companies, other corporations, and bodies, when so required by related laws.
- To audit all transactions of the Central and state governments related to debt, sinking funds, deposits, advances, suspense accounts, and remittance business. He also audits receipts, stock accounts, and others, with approval of the President, or when required by the President.
- To audit the accounts of any other authority (For example, the audit of local bodies) when requested by the President or Governor.
- Article 150- To advise the President with regard to the prescription of the form in which the accounts of the Centre and the states shall be kept.
- Article 151- To submit his audit reports relating to the accounts of the Centre to the President, who shall, in turn, place them before both the Houses of Parliament and also to submit audit reports relating to the accounts of a State to the Governor, who shall, in turn, place them before the state legislature.
- Article 279- To ascertain and certify the net proceeds (the proceeds of a tax or a duty minus the cost of collection) of any tax or duty and the CAG's certification will be final.
- To compile and maintain the accounts of state governments (audit, that is, departmentalization of accounts).

Conclusion

Dr. B.R.Ambedkar said that the CAG shall be the most important Officer under the Constitution of India. There has been little attention paid to the office of the CAG as compared to other posts and offices, as mentioned under the Constitution, but it is an office of utmost importance and relevance. It is high time to make relevant reforms to make the functioning of the CAG more transparent and efficient.

FINANCE COMMISSION

Finance Commission is a constitutional body under Article 280. The President of India is mandated to appoint a Finance Commission every five years or sooner. It sets the mechanism and formula for allocating tax revenues between the Centre and states, as well as among states, in accordance with the Constitution and current needs. In November 2017, the President of India appointed the 15th Finance Commission, under the chairmanship of NK Singh.

Finance Commission

- Article 280 of the Constitution of India provides for a Finance Commission as a quasi-judicial body.
- It is constituted by the president of India every fifth year or at such an earlier time as he considers necessary.
- Role of Finance Commission: To give its recommendations on distribution of tax revenues between the Union and the States and amongst the States themselves.
- Article 281 of the Indian Constitution related to the recommendation of the Finance Commission.
- Two distinctive features of the Finance Commission:
 - Redressing the vertical imbalances between the taxation powers and expenditure responsibilities.
 - Equalisation of all public services across the States.
- Note: State Finance Commission for the States of India are constituted under the Constitution 73rd Amendment Act, 1992 to look after the matter of local governments.

Finance Commission - Composition

- The Finance Commission is made up of a chairman and four additional members appointed by the president.
- They serve for the duration set by the president in his order. They are eligible for re-appointment.
- Qualification: The Constitution empowers Parliament to set the qualifications of commission members and the way in which they should be chosen.
- As a result, the qualifications of the chairman and members of the commission have been set by Parliament.

- The chairperson should be someone with public affairs expertise, and the four other members should be chosen from the following:
 - A judge of the high court or one qualified to be appointed as one.
 - A person who has specialised knowledge of finance and accounts of the government.
 - A person who has wide experience in financial matters and in administration.
 - A person who has special knowledge of economics.
- Disqualification: Members may be disqualified if they are found to be of unsound mind, have committed a heinous act, or have a conflict of interest.

Tenure

Tenure of Finance Commission

- The President of India specifies the term of office for Members of the Finance Commission, they are normally appointed for five years, and in some situations, the members are re-appointed.
- The members must contribute part-time or volunteer service to the Commission as the President directs.
- Before the five-year period expires, the President can appoint Finance Commission if he deems it essential.

Functions of the Finance Commission

It is the duty of the Commission to make recommendations to the President as to:

- The distribution between the Union and the States of the net proceeds of taxes which are to be, or maybe, divided between them and the allocation between the States of the respective shares of such proceeds.
- The principles which should govern the grants-in-aid of the revenues of the States out of the consolidated fund of India.
- The measures needed to augment the Consolidated Fund of a state to supplement the resources of the Panchayat in the State on the basis of the recommendation made by the Finance commission of these states.
- The measures needed to augment the Consolidated Fund of a state to supplement the resources of the Municipalities in the State on the basis of the recommendation made by the Finance commission of these states.
- Any other matters referred to the Commission by the President in the interests of sound finance.
- The Commission determines its procedure and has such powers in the performance of their functions as Parliament may by law confer on them.

Conclusion

The role of Finance Commission had been subordinated with the establishment of Planning Commission, for planning commission, apart from planning the development layouts of the country,

Election commission of India

The Election commission of India is a permanent, autonomous, quasi-judicial and constitutional body created under Article 324 in part 15 of the constitution. It is the supreme body vested with powers of supervision, control and direction over all aspects of electoral governance in the country. The Election Commission was established in 1950 with the primary goal of managing and controlling and responsible for conducting free and fair elections of parliament, state legislature, the office of president of India and the office of vice-president of India.

Historical Background Election Commission of India

- General elections were held in India between 25 October 1951 and 21 February 1952. They were the first elections to the Lok Sabha after independence in August 1947. It was conducted under the provisions of the Indian Constitution, which was adopted on 26 November 1949 by the Election Commission of India established under Article 324 of the Indian constitution.
- Till 1989, the election commission was a single-member body consisting of only the Chief Election Commissioner when two more election commissioners were appointed functioning as a multi-member body.
- Again between 1990 and 1993 the election commission was a single-member body. Presently the Election Commission has a chief Election commissioner and two other election commissioners.
- The commission is assisted by deputy election commissioners and at the state level assisted by the chief electoral officer appointed by the commission with tenure system.

Composition

Composition of Election Commission of India

The Election Commission shall consist of:

1. A chief election commissioner and other election commissioners (the number is to be decided by the President from time to time) Art 324.
2. Regional commissioners to be appointed by the President (after consultation with the election commission) as he may consider necessary to assist the Election Commission.
3. The conditions of service and tenure of office of the election commissioners and the regional commissioners shall be determined by the President.

Eligibility

Appointment of Members of Election Commission of India

- The Constitution does not provide any educational, legal, administrative or judicial qualification for the appointment of members of the election commission.
- It has authorized the Parliament to make laws for the appointment of members of the election commission. The parliament, however, has not enacted any law in this regard.

- Recently in July 2017 the Supreme Court hearing a plea seeking Constitution of a committee composed of the Prime Minister, leader of the opposition and the chief justice of India for appointment of election commissioner expressed concerns over the absence of a law on the appointment to election commission of India and chief election commissioner. The apex court asked the government to formalise a law for the appointment of members of the election commission.

Structure and Terms

- The commission consists of one chief election commissioner and two election commissioners appointed by the President.
- Tenure six years or up to the age of 65 years whichever is earlier
- The Constitution does not prescribe terms of members of the election commission.
- The chief election commissioner and two other election commissioners have equal powers and receive equal salaries, allowances and other perks similar to those of a judge of the Supreme Court.
- The secretariat of the commission is located in New Delhi.

Functions Election Commission of India

Administrative functions

- Determine territorial areas of electoral constituencies based on the delimitation commission act.
- It prepares and revise electoral rolls and to register all eligible voters.
- It grants recognition to political parties and allot election symbols to them.
- Notify the dates and schedules of elections and scrutinize nomination papers.
- Supervise machinery of elections throughout the country to ensure free and fair elections.
- It determines the Code of Conduct and cancels polls in the event of booth capturing and other irregularities.

Quasi-Judicial function

- It has the power to settle disputes related to recognition granted to political parties.
- It is entitled to act as a court for matters relating to disputes arising out of the election symbol to political parties.
- It also has the power to disqualify a contender who failed to lodge an account of his election expenses within a given time.

Advisory function

- It advises the President and the Governor on matters relating to disqualification of members of parliament and the state legislature. The opinion of the commission in all such matters is binding.
- To advise the president whether the elections can be held in a state under the President's rule to extend the period of emergency after one year. Importance

Significance of Election Commission of India

- It upholds values enshrined in the Constitution viz, equality, impartiality, equity.
- It supervises and controls electoral Governance.
- VVPAT was introduced with EVM at every polling station to enhance transparency.
- It facilitates awareness about the electoral procedure and functioning to voters, political parties, and candidates thereby strengthening the electoral system of the country.

Conclusion

The Election Commission is the bulwark of the Indian Constitution. It is not only responsible for conducting free and fair elections, but it also renders a quasi-judicial function between the different political parties as well as the ruling government.

THANK YOU

