

Gender Representation

Hours: 16 Hrs

Course Objectives:

- To celebrate the transformative impact of Women's and Gender studies on humanities disciplines as well as the social and natural sciences
- To foster critical thinking that examines the complex intersections between gender and other identity categories such as sexuality, race, class ethnicity

Course outcome:

After successful completion of the course, the student will be able to

- Design the empathy map for people
- Analyse the problems and issues of gender

Unit 1: Gender as a Social Construct:

4 Hrs

Gender, Sex, Sexuality; Production of Masculinity and Femininity.

Unit 2: Gender: Differences and Inequalities

4 Hrs

Class, Caste Family, Work difference

Unit 3: Gender, Power, and Resistance:

4 Hrs

Power and Subordination; Resistance and Movements

Unit 4: Sexualities:

4 Hrs

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Stereotypes, Indian Culture and Context, LGBTQ

References:

Jaysing, Indira (2004) Ed.Law relatın to sexual Harassment at the workplace,
Universal law Publishing company ,Delhi.

Stromquist.N 1994 Gender and Basic Education in International Development
cooperation staff working paper No:13 New York, UNICEF

Empowerment of Women in India

Hours: 16 Hrs

Course Objectives:

- To understand the art of living
- To understand the concept of Gender, Identify stereotype of gender, race, class, and sexual identity in Media
- **Course outcome:**
After successful completion of the course, the student will be able to
 - Analyse the problems and issues of gender
 - Evaluate the programs related to women empowerment

Empowerment of Women in India

4 Hrs

Unit1: Fundamental concepts of women’s studies-


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Definition- Objectives of Women Empowerment Importance Women Empowerment as an Academic Discipline

Unit-2 Social Empowerment- 4 Hrs

Women in Higher Education; Gender issues in Health, Environment, Family welfare Measures, representation of Women in media; Women in Difficult circumstances

Unit 3-Economic Empowerment- 4 Hrs

Role of Women in Economic Development; Impact of Globalization on working women

Unit 4 -Social Issues Regarding Women- 4 Hrs

Issues of Girl child, Female, infanticide and foeticide, Sex Ratio child marriage, Dowry & Property Rights, Violence against Women, Domestic violence, Female Headed Households', Women in the Unorganized sector of Employment

Reference:

Women and Law (1994) Contemporary problems ed.by Lotika Sarkar and B.Sivaramayya-New DelhiWOM6073

Richard Nelson –Jones (1993) You can help! Introducing Life skills Helping. Allen &Unwin Australia WHO. Life skills Education: Planning for research Geneva,

WHO (1996)


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Gender culture and mass media Hours: 45 Hrs

Course Objectives:

- The purpose of this course is to explore the relationship between gender, Culture, and mass media.
- This course will help students understand how the media structure our understanding of gender.
- Address the role of new media technologies in challenging and reaffirming the traditional construction of gender.

Course outcome:

The course will provide insight on key concepts such as gender, media, Culture.

- The students will understand importance of media and representation of women.
- . It provides better understanding of gender related issues in mass media.

Unit 1 Understanding key concepts:

Gender – Culture-Media- Fundamentals of Mass Communication- Need for Engendering media - Influence of Culture on media - Popular Culture and Media - Recent trends in media Culture. Evolution of cultural studies and influence of Feminism on Cultural studies

Unit 2: Gender representation in various media

4 Hrs

Gender representation: Television – Newspapers- Magazines- Journals - Radio programs – Films – Television Serials and Web Series – Theatres - Folk arts, Music Videos - Dance - Advertisement

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Caste, class, and Gender bias in Indian media- Trivialization - Gender Stereotype- Empowerment of women in India – Women’s Magazines – Portrayal of new-age women in Media- Alternative media – Job opportunities in media - Women professionals in media - Portrayal of LGBTQ+ communities in media

Unit 3: New Media, Law, and Gender

4 Hrs

Gender question in Digital media, social media: Twitter, Facebook, WhatsApp, Instagram, Telegram, Snap chat - Online activism on gender issues: Indecent Representation of Women (Prohibition) Act,1986 – Guidelines for journalistic conduct laid down by press trust of India, Social Media Act 2021

4 Hrs

References:

1. Charlotte Krolokke, Anne Scott Sorensen, Gender Communication; Theories and Analysis New Delhi, Sage Publication, 2006.
2. John Storey, Cultural Theory and Popular Culture: An Introduction, New York, Pearson Longman. 2009.
3. Laura Mulvey, Visual and Other Pleasures, New York, Plagrave, 1989. 4. Mary Celeste Kearney, The Gender and Media Reader, New York, Routledge, 2012


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Syllabus

(III & IV Semester)

INDIA AND INDIAN CONSTITUTION

(Revised on November 23, 2022)

Submitted to

**Principal Secretary to the Govt.
Higher Education Department,
Bengaluru**

Submitted by

**Chairman and Members
Committee for Curriculum Framing in Political Science and Public
Administration**

INDIA AND INDIAN CONSTITUTION

Ability Enhancement Compulsory Courses (AECC)	
Course Title: INDIA AND INDIAN CONSTITUTION	
Total Contact Hours: 45	Course Credits: 3
No. of Teaching Hours/Week:3	Duration of ESA/Exam: 2 Hours
Formative Assessment Marks: 40	Summative Assessment Marks: 60+40=100

Course Objective

The purpose of the course is to help students to learn and explain the journey of India as a republic. They will, through this paper learn to contextualise the depth of India as a nation with its diverse socio-political culture, its philosophical traditions, values and Ideals. It will give them knowledge to expound the breadth of freedom struggle in various parts of India, its significance in nation building and the sacrifices made both by its leaders and followers. It will help them to demonstrate their knowledge regarding the efforts made at working towards a constitution as India's conscience cherishing the values of Justice, Liberty, Equality and Fraternity. Consequently it will enable students to contextualise the powers and functions of various offices under the Constitution. It will help them determine the role and responsibilities of citizens as enshrined in the Constitution, offering insights in to the contributions of personalities like Gandhiji, Dr B.R.Ambedkar and Jawahar Lal Nehru, Bal Gangadhar Tilak, the values tolerance, equality of treatment, scientific secularism and swarajya and the processes of policymaking keeping national wellbeing in the forefront. This paper will enable students to illustrate how vibrant our Constitution is, how farsighted were its makers and how efficient are the various institutions that are functioning under it.

Learning outcomes

Upon completion of this course students will be able to—

- Explain the philosophy and the structure of the Constitution.
- Measure the powers, functions and limitations of various offices under the Constitution.
- Demonstrate the values, ideals and the role of Constitution in a democratic India.

Unit	Contents of Course:	45 Hours
Unit-I	Background to the study of Indian Constitution**	
	Chapter 1: Philosophical and Political foundations of India: Dharma and Danda, Buddhist, liberal (Raja Rammohun Roy) and Subaltern (Ranajit Guha)* Colonial impact on Indian society,** Nationalist perspective (Swamy Vivekananda and Sri Aurobindo).	6 Hours
	Chapter 2: Political values and Ideals during freedom struggle: Non Violence, Tolerance, Satyagraha and Swadeshi (Gandhi), Swarajya (Tilak), Integral Humanism (Deen Dayal Upadhyay) and Voluntarism (Vinoba Bhave).	5 Hours
	Chapter 3: Political Contribution of Regional freedom struggle: Kittur Rani Chennamma, Hardekar Manjappa, Madikeri Peasants, Halagali Bedas.	4 Hours
Unit-II	Constitutional Development and its Philosophy	
	Chapter- 4: Historical background of Constitutional development in India - Developments between 1857 to 1952 (only Acts during this period must be taught), Composition and debates of Constituent Assembly (in brief), working of committees.	5 Hours
	Chapter 5: Philosophy and features of Indian Constitution - Preamble*, Salient features**, Constitutionalism, Dr B.R. Ambedkar and Nehru's contribution in the making of the Constitution.	5 Hours
	Chapter- 6: Working of the Constitution - Fundamental Rights, Union-State and Inter-State Relations (Art. 263, Inter-State disputes and trade and commerce), important Amendments to the Constitution**, Parliamentary Committees* (Standing, Ad hoc and Departmental).	5 Hours

Unit-III	Constitutional Institutions and Citizen's role	
	Chapter 7: Parliamentary and Constitutional Institutions: Legislature* (Upper and Lower house), Executive (composition and powers), Judiciary (High Court and Supreme Court, its composition and jurisdiction), Comptroller and Auditor General, Inter-State Council, Election Commission.	6 Hours
	Chapter 8: Role and Responsibilities of Citizens under Indian Constitution: Concept of Citizenship, Citizenship Amendment Act, Fundamental Duties, Right to Information Act, Civil Society.*	4 Hours
	Chapter 9: Goals and Policies of National Development enshrined in the Constitution: Concept of National Development, Unity and Integrity of the nation, Goals of Educational Policies*, Role of teachers and students in Nation Building**.	5 Hours

(**Note-This is a compulsory, foundational and value additional course to be taught to students at the graduate level. The paper is expected to impart the structure and functional aspects of constitution while giving them the background of a diverse country like India and the nuances of its social fabric and the why of such an elaborate constitution. The introductory chapter therefore is designed to familiarise students about their country and culture before they understand their constitution).

(Please note: The question paper pattern is indicative of the way a teacher needs to teach this paper. The pedagogical choice of a teacher helps to make an impact of his/her teaching on the student. Activity based and experiential teaching methods help student centric learning process - these are tips to make this paper more meaningful- the ultimate choice is left to the teacher)

Exercise:

- Department can debate on the role of Constitution in the development of India.
- Students can empirically evidence the effectiveness of concepts like –Freedom, Equality, Justice, Rights and Duties by conducting empirical studies.
- Can invite experts to deliver special lectures on various provisions and amendments of the Constitution like the functioning of Election Commission, Article 246, 356 etc.

Important Notes:**Chapter 1:**

* These are introductory courses. Teachers should give a brief introduction to these for a better understanding of the philosophical and political foundations of Indian society taking suggested thinkers as examples (Max 2hrs).

** Here teachers should briefly teach about the contributions and impact of British and Arabs as invaders, Mughals as settlers (Max 2hrs).

Chapter 2:

* These are to be taught briefly as concepts against the backdrop of freedom struggle

Chapter 3:

* BOS can alter this chapter to bring in the personalities and movements in their region who have made an impact on freedom struggle.

Chapter 5:

*While teaching the preamble please cover secularism and its criticism keeping in mind the neutrality of state in matters of religion and bring in the discussion regarding the differences in the usage of the terms like Religion, Dharma, Pantha (ಪೌಢ), *Matha* (ಮಠ) , Caste, *Jatyathithate* and the meaning of Scientific Secularism as expounded by Nehru.

** In the salient features the teachers must teach at least 10 features of the constitution like Written constitution, Parliamentary form of government, Quasi federalism, Directive Principles of State Policy, Amendment procedure, Universal adult franchise, Integrated citizenship, Independent judiciary, Judicial Review, Emergency provisions and Three tier system of governance etc. The BOS has the discretion in selecting the salient features.

Chapter 6:

*In the committees they should teach the nature of these committees, their types, categories and sub categories.

** In this the teacher should teach the amendments like 42nd, 73rd, 74th, 101st, etc which have major impact on the working of the Constitution. The BOS has the discretion in selecting the amendments but must ensure that they have a bearing on the working of the constitution.

Chapter 7:

* Here teachers are expected to teach the institutions in general and contextualise them to state and central governments.

Chapter 8:

*In this the teacher should discuss issues like paying taxes, exercising vote, discouraging corruption, Knowledge of laws that govern them.

NCC

AS AN ELECTIVE SUBJECT

NCC DTE, KAR & GOA

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**PROPOSAL FOR IMPLEMENTATION OF NCC AS AN ELECTIVE SUBJECT IN THE
STATE OF KARNATAKA**

1. Ref recent meeting between Air Cmde, B S Kanwar, VSM, Deputy Director General, NCC directorate Karnataka & Goa & Prof B Thimme Gowda, Vice Chairman State Higher Education Council, Government of Karnataka on NCC Curriculum.

2. **Introduction**. The National Cadet Corps (NCC) is governed by NCC Act 1948 and attendant NCC Rules. It functions under the Ministry of Defence and is headed by DGNCC. It is organised into 17 State Directorates each headed by an Additional/Deputy Director General. The aims of NCC are: -

(a) To devp char, camaraderie, discipline, secular outlook, the spirit of adventure, sportsman spirit and ideals of selfless service amongst cadets by working in teams, honing qualities such as self-discipline, self-confidence, self-reliance and dignity of labour in the cadets.

(b) To create a pool of organised, trained and motivated youth with leadership qualities in all walks of life, who will serve the Nation regard less of which career they choose.

(c) To provide a conducive environment to motivate young Indians to choose the Armed Forces as a career.

2. Currently NCC trg is imparted as extracurricular activity to volunteer students from recognized schools and colleges who enroll as cadets. NCC as a Credit Course is designed with an intent to transform NCC trg into a curricular activity from an extra-curricular thereby providing academic credits to students undergoing NCC trg along with other attended adv to the cadets in the college/ university.

PROPOSAL

3. The proposal is to implement NCC as an elective subject in all universities/ colleges with NCC in the state of Karnataka.

IMPLEMENTATION METHODOLOGY AS PROPOSED BY NCC
DIRECTORATE, KARNATAKA AND GOA

4. An in-depth in house discussion was conducted with all the stakeholders on the subject and following is the proposal of the Directorate of NCC, Karnataka and Goa

(a) To implement NCC as an elective with 03 credit points for 06 semesters under Value Based Credits and additional 08 credit points for two camps in 4th and 6th semester with 04 credit points to each camp. Since, NCC by virtue of it being a stepping stone towards joining armed forces, the schedule includes intense physical, sporting and mental robustness activity to build stamina, mental robustness and teamwork, NCC cadets should be exempted from compulsory sports/Yoga/ Health and Wellness activity under Value based credits of the state. Hitherto 02 credit points to be auto credited to all NCC cadets for being enrolled in NCC in the first semester. Thus the overall credit score awarded for NCC as an elective would be 12 credit points under Value based credits (SEC) and 08 credit points for the two camps in 4th and 6th semester thus totalling to 20 credit points.

(b) A proposed Model Programme Structure for NCC as an open elective is attached as **Appx A**. The various aspects of the model programmed structure is as follows:-

(aa) Distribution of total periods under semesters is 360 periods of practical which includes NCC activities and community based activities (SSCD activities). Each period is of one hour duration. The yardstick for awarding credit points is every 30 periods of practical accumulates one credit point.

(ab) Fourth and Sixth semester will have camps as optional for NCC B & C certification. The two camps in fourth and sixth semester respectively will give 04 credit points each making it a total of 08 credit points for the two camps. These camps of ten days duration each will be conducted keeping in mind the University semester examinations under NCC for cadets who have voluntarily opted for NCC.

(ac) Following is the distribution of credit points semester wise under Value Based Credits.

Semesters	SEC
	Value Based Credit Points
Semester 1	60 hrs/NCC(02)
Semester 2	60 hrs/NCC(02)
Semester 3	60 hrs/NCC(02)
Semester 4	60 hrs/NCC(02)

Semester 5	60 hrs/NCC(02)
Semester 6	60hrs/NCC(02)
Total Credit Points	360 hrs/12 credits

(ad) Following is the distribution of camp credit points:-

Semesters	Credit Points
Semester 1	-
Semester 2	-
Semester 3	-
Semester 4	120 hrs/NCC(04)
Semester 5	-
Semester 6	120 hrs/NCC(04)
Total Credit Points	240 hrs/ 08 credits

(ae) Consolidated list credit points awarded are as given below:-

Semesters	Yoga/Health & Wellness/ NCC	Remarks
Semester 1	02	
Semester 2	02	
Semester 3	02	
Semester 4	02+04	04 for camp
Semester 5	02	
Semester 6	02+04	04 for camp
Total Credit Points	20	

(c) The total credit points for NCC as an elective is 20 credit points. Detailed Curricular, credit structure, carryover provision, classification of successful candidates, assessment and evaluation guidelines will be forwarded soon.

(d) The entire curriculum of the NCC is promulgated by the highest authority at the office of Head Quarters, Director General of NCC, New Delhi which is applicable pan India. Hence, it cannot be diluted without the approval of Min of Def.

(e) The Broad curriculum for various wings of NCC semester wise with periods and credit points awarded is att as **Appx B**

(f) The Broad evaluation pattern is att as **Appx C**

5. The ANO will assess the cdts thrice in a semester at the end of every 05th week.
The syllabus of the assessment would be the syllabus which has already been taught since then. The syllabus to be taught per semester is given in Appx B. The second and third assessment by the ANO will coincide with the assessment of PI Staff. This is to ensure transparency in assessment.
6. The PI Staff assessment would be carried out at the end of 10 week and 15th week of the semester. Details of marks awarded and eligibility criteria is attached as **Appx D**

Model Programme Structure with NCC as an Elective Subject						
Semesters	Discipline Core (DSC) (Credits) (L+T+P)	Discipline Elective (DSE)/Open Elective (OE) (Credits) (L+T+P)	Ability Enhancement Compulsory Courses (AECC), Languages (Credits) (L+T+P)	Skill Enhancement Courses (SEC)		Total Credits
				Skill based (Credits) (L+T+P)	Value based (Credits) (L+T+P)	
I					NCC(2)	1. The total credit pts will increase to 26 as against 25. The same needs to be accommodated. 2. An increase in credit pts from 02 to 03 under Value Based Credits entails either accommodate 03 credit pts or make a separate column for NCC with 03 credit pts @ The 06 credit points awarded based on attendance & evaluation of cadet in the two camps at the end of 4 th /5 th and 5 th /6 th semester with each camp giving 04 credit points each.
II					NCC(2)	
III					NCC(2)	
IV					NCC(2+ 4@)	
V					NCC(2)	
VI					NCC(2+ 4@)	
Total Credit Points awarded at the end of 6 th Semester					12+08@=20 credit points	

INSTITUTIONAL TRAINING – ARMY

Ser No	Subjects	I	II	III	IV	V	VI
1	NCC General	6	1	1	0	0	0
2	National Integration	4	4	1	0	0	0
3	Personality Development	2	5	4	4	6	4
4	Leadership	2	3	3	3	0	0
5	Disaster Management	1	1	2	2	3	3
6	Social Service & Community Development	2	2	2	2	4	2
7	Adventure	2	2	1	3	3	2
8	Environmental Awareness & Conservation	1	1	1	3	3	2
9	General Awareness	2	2	2	2	1	1
10	Border & Coastal Areas	2	2	2	2	1	1
11	Armed Forces	1	1	1	1	2	3
12	Infantry Weapons	0	0	2	0	3	0
13	Communication	0	0	2	0	0	3
14	Military History	1	2	4	4	4	5
15	Drill	12	12	8	7	3	3
16	Field Craft & Battle Craft	3	4	4	4	4	3
17	Map Reading	3	5	4	4	4	4
18	Weapons Training	5	4	4	4	4	4
19	Communication	0	0	0	0	0	3
20	Infantry Weapons	0	0	0	0	0	3
21	Social Service & Community Development	7	5	5	6	6	10
22	Health & Hygiene	2	2	2	5	5	0
23	Operation Training	2	2	5	4	4	4
Total Periods					60	60	
					60	60	
					60	60	
Total Credit Pts					2	2	2
							360
							12

Objectives of National Service Scheme (NSS)

- (i) To groom youth as social centric by applying her/his knowledge towards improvement of the community.
- (ii) To develop among themselves a sense of social and civic responsibility and act as agents of Social change towards India@2047 as a developed Country.
- (iii) To acquire leadership qualities and democratic understanding to uphold the values ensured in the constitution.
- (iv) To develop capacity to face emergencies and mitigate natural disasters.
- (v) To Practice national integration and social harmony, with a spirit of Nation pride and patriotism.
- (vi) To sensitize about role and responsibilities of youth towards United Nations Sustainable Development Goals.
- (vii) Develop a spirit of volunteerism to adopt deprived sections of society as lifelong.
- (viii) To reach out the government Schemes to the poor and deprived.

Vision

- The Ultimate vision of the NSS is to embed the lifelong Volunteerism in the college going youth.

ASSESSMENT/EVALUATION PROCESS FOR NSS UNDER SEC

- **First Semester** No Credits - 2 Credits from **Second Semester** up to Sixth Semester (Level II to Level VI).
- Second Semester onwards Assessment/Evaluation Process - 50 Marks (10 Marks Attendance +40 Marks Participation in community engagement activities)
- Evaluation has national to be made under the Chairmanship of the Principal & The Advisory committee.
- The first preference shall be given to the candidates who have already served in School/ P U. NSS unit
- All NSS Activities and Programs shall be conducted as per the NSS Manual.
- Each programs /community engagement activities shall be taught through proper instructions and demonstration by the programme officer/Experts from the area selected.

semester

NSS activities
Orientation Program about NSS
NSS Song – Patriotic songs
Preparation of Flag base/ Flag hoisting
Introduction to NSS March fast
Campus cleaning programs (shramadhana)
Extension service Activities
Health camps/Tree plantation

Note:

- The list of activities, can be obtained from ANNEXURE 1
- At each Level/semester, one or two activities shall be collaborated, with the State NSS Cell/Universities
- At the end of each semester, every college/University has to upload the qualitative outcome of the NSS community engagement programs to State NSS cell portal www.nss.karnataka.net
- Each college shall have an Alumnus of NSS volunteers and same has to be uploaded to the state NSS Portal

Total 60 Hrs (4 hrs per week)

Maximum Marks:50

Level-II (III Semester)

Allotment of marks as based on the chart mentioned below

Sl. no	Total Sessions attended	Marks 10 (Max)
1	Between 75% & 80%	6
2	Between 80% & 90%	8
3	Above 90%	10

Sl. no	NSS activities	Marks 40 (Max)	No. of Hours
1.	Campus cleaning programs (shramadhana) and Tree Plantation (Minimum two)	10	15
2.	Health, Family welfare and Nutrition related awareness programme	10	15
3.	Literacy Awareness Programs/Digital Literacy/ Adult Literacy Programs	20	30
4.	OR Creation of Durable assets in adopted village/Slum (Construction of Toilets, Painting of Schools Etc..)		
Total		40	60

Attendance: 10 marks

Note:

- Evaluation shall be made by the NSS Program officer of the College, with the help of a committee constituted by the Principal with not less than 3 members.

2. At each Level/semester, one or two activities shall be collaborated, with the State NSS Cell/Universities
3. The outstanding services rendered by the volunteers/colleges in community engagement programs/activities shall be considered with due credit and recognitions by the University.
4. At the end of each semester, every colleges/University has to upload the qualitative outcome of the NSS community engagement programs to State NSS cell portal www.nss.karnataka.net
5. Each college shall have an Alumnus of NSS volunteers and same has to be uploaded to the state NSS Portal.

NATIONAL SERVICE SCHEME

Total 60 Hrs (4 hrs per week)

Maximum Marks:50

Level III (IV Semester)

Allotment of marks as based on the chart mentioned below

Sl. no	Total Sessions attended	Marks 10 (Max)
1	Between 75% & 80%	6
2	Between 80% & 90%	8
3	Above 90%	10

Sl. no	NSS activities	Marks 40 (Max)	No. of Hours
1a.	Blood donation camp - 05 Marks (Max)	15	20
b.	Blood Donor – 05 Marks; Volunteer - 03 Marks		
	Campus cleaning programs (shramadhana) - 10 Marks (Max)		
2.	Awareness Programmes at village/ Slum (Environment conservation, sustainable energy sources, waste management, Health, family welfare and nutrition related programmes for women & Children, Legal Awareness Program Etc..)	25	40
	OR		
3.	Participation in RD/NIC/ Youth festival/ Adventure camps/special camp		
	Total	40	60

Attendance: 10 marks

Note:

1. Evaluation shall be made by the NSS Program officer of the College, with the help of a committee constituted by the Principal with not less than 3 members.
2. At each Level/semester, one or two activities shall be collaborated, with the State NSS Cell/Universities

3. At the end of each semester, every college/University has to upload the qualitative outcome of the NSS community engagement programs to State NSS cell portal www.nss.karnataka.net
4. Each college shall have an Alumnus of NSS volunteers and same has to be uploaded to the state NSS Portal.

NATIONAL SERVICE SCHEME

Total 60 Hrs (4 hrs per week)

Maximum Marks:50

Level IV (V Semester)

Allotment of marks as based on the chart mentioned below

Sl. no	Total Sessions attended	Marks 10 (Max)
1	Between 75% & 80%	6
2	Between 80% & 90%	8
3	Above 90%	10

Sl. No	NSS activities	Marks 40 (Max)	No. of Hours
1.	Awareness programmes	10	15
2.	Campus cleaning programs (shramadhana)	10	15
3.	Internship programmes collaborated with NGOs/ Govt. Departments	20	30
4.	Socio-Economic Surveys at adopted villages/ slums		
	Total	40	60

Attendance: 10 marks

Note:

1. Evaluation shall be made by the NSS Program officer of the College, so with the help of a committee constituted by the principal with not less than 3 members.
2. At each Level/semester, one or two activities shall be collaborated, with the State NSS Cell/Universities
3. At the end of each semester, every college/University has to upload the qualitative outcome of the NSS community engagement programs to State NSS cell portal www.nss.karnataka.net
4. Each college shall have an Alumnus of NSS volunteers and same has to be uploaded to the state NSS Portal.

NATIONAL SERVICE SCHEME

Total 60 Hrs. (4 hrs. per week)

Maximum Marks:50

Level V (VI Semester)

Allotment of marks as based on the chart mentioned below

Sl. No	Total Sessions attended	Marks 10 (Max)
1	Between 75% & 80%	6
2	Between 80% & 90%	8
3	Above 90%	10

Sl. No.	NSS activities	Marks 40 (Max)	No. of Hours
1.	Life skill programme collaborated with NIMHANS/NGO/ Skill Development corporation/placement cell (7Days certificate programmes) Career counseling/ TOT Programmes	20	30
2.	Awareness programmes/Skits/street plays/rallies in adopted villages/slums	20	30
3.	OR Surveys in adopted villages/slums (Surveys should be based on their core subjects i.e..BA, B.com, BBA & B.sc)		
	Total	40	60

Attendance: 10 marks

Note:

1. Evaluation shall be made by the NSS Program officer of the College, with the help of a committee constituted by the Principal with not less than 3 members.
2. At each Level/semester, one or two activities shall be collaborated, with the State NSS Cell/Universities
3. Any two of the above activities is mandatory.

4. At the end of each semester, every colleges/University has to upload the qualitative outcome of the NSS community engagement programs to State NSS cell portal www.nss.karnataka.net
5. Each college shall have an Alumnus of NSS volunteers and same has to be uploaded to the state NSS Portal.

National Service Scheme

List of International and National Days/Weeks

DAYS	DATE
1. National Youth Day	12 th January
2. Republic Day	26 th January
3. Martyrs Day	30 th January
4. International Women's Day	8 th March
5. World Health Day	7 th April
6. Anti-Terrorism Day	21 st May
7. World No Tobacco Day	31 st May
8. World Environment Day	05 th June
9. World Population Day	11 th July
10. Independence Day	15 th August
11. Sadbhavana Day	20 th August
12. International Literacy Day	08 th September
13. International Peace Day	15 th September
14. NSS Day	24 th September
15. National Blood Day	01 st October
16. Communal Harmony Day	02 nd October
17. National Integration Day	19 th November
18. World AIDS Day	1 st December
19. World Human Rights Day	10 th December

WEEKS

01. National Youth Week	12-19 January
02. Vana Mahotsava Week	1-7 July
03. International Literacy Week	8-14 July

List of activities

- Environment enrichment & conservation awareness programmes.
- Sustainable energy sources/ Waste management/Rain water harvesting, tree plantation/waste management/Walkathon/Rally related to environment protection Etc.
- Health, Family welfare and nutrition related awareness programme
- Cancer awareness programme/ organ donation programmes/ Health camps/Free Dental checkups/Yoga Etc.
- Programmes aimed at creating awareness for empowerment of the status of Women
- Programmes related to menstrual hygiene/Sex abuse prevention/Importance of pocso/Self-defense technique.
- Awareness about Govt. schemes like Ujjwala Yojana/Jandhan Yojana/Digital India/Phasal Bhima Yojana/Ayushman Bharath, Etc.
- Durable assets creation
- Construction of Toilets/Rain water harvesting/ Painting of Govt Schools & Anganvadi
- Restoration & cleaning of historical monuments
- Life skill Training programmes
- Soft skill Training programmes/TOT

Note : The outstanding services rendered by the volunteers/colleges in community engagement programs/activities shall be considered with due credit and recognitions by the University for a period of two years.



BENGALURU NORTH UNIVERSITY

Board of Studies
in
**Physical Education,
Sports & Yoga**

2021-22 Onwards

**Regulations & Syllabus
For
Under Graduate Degree
First & Second Semesters**

***Discipline Specific Core Paper**

***Open Elective Papers**

***Skill Enhancement Course Papers**

Yoga * Health & Wellness * Sports

Email: [Email Address]

**Address: [Street Address, City,
State, Zip Code]**



**Framed as per
National Education Policy-2020
Karnataka**

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13.	Open Elective Sem-2: Yoga and Fitness	28-29
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PREAMBLE

Bengaluru North University being a young university bifurcated from Bangalore University has transformed itself to a education hub. The University covers Kolar, Chickaballapura, Bangalore Rural District and parts of Bangalore Urban District. The University strongly believes that Physical Education and Sports is an integral part of education. Since its inception, constant efforts are made to bring in Physical Education as a curricular subject among the programs offered by the University. With the introduction of New Education Policy-2020 immense and intense openings for Physical Education, Sports and Yoga as a subject, are being introduced as not only the Discipline Specific Core subject or Open Elective subject but also as a compulsory Skill Enhancement Courses and a Value Based subject. Introduction of Physical Education, Sports and Yoga at graduate level will have greater impact on health of the youth in general.

The Under Graduate level course in Physical Education, Sports and Yoga includes subjects varying from Foundation of Physical Education to Anatomy, Health Education, Physiology, Kinesiology, Officiating & Coaching, Test & Measurement, Nutrition, Rehabilitation, Psychology, Sports Training, Sports Biomechanics, Methods of Teachings, History, Principles and Practices of Yoga, Application of Yoga etc., which are aimed to give thorough knowledge and skills to the students. Students perusing Physical Education, Sports and Yoga courses are enabled to join jobs such as Physical Fitness and Yoga trainers, Coaches, Sports and Games Officials, Referees, Umpires, Curators, Gym trainers, Life guards, Personal trainers, Yoga therapist etc. During their course of education the students also develop the expertise to establish their own business as entrepreneurs in the field of Fitness, Sports, Yoga, Recreation, Rehabilitation, Adventure Sports, Camping, Event Management etc. The students who are interested can also pursue research in the field of Physical Education, Sports and Yoga.

The Board of Studies meeting of Physical Education, Sports and Yoga, was held on 16th October 2021 at the City Office, Bengaluru North University, Jnana Jyothi Auditorium, Bengaluru. The First and Second Semesters curriculum framework was designed and finalized, in accordance with the proposed curriculum frame work of Karnataka State Higher Education Council (KSHEC). The syllabus was framed for Discipline Specific Core (DSC), Open Electives (OEs), Skill Enhancement Courses (SECs) in Health and Wellness, Yoga and Sports.

Semester – I
Skill Enhancement Course (SEC-1)
PHYSICAL EDUCATION - YOGA
(B.A/B.Sc./B.Com/BBA/BCA & all other UG Courses)

Number of Credits	Number of lecture hours/ semester
1	14 Hours = 28 Practical Hours
Content of Practical Course (0-0-2)	
<p>Unit 1:-Asanas</p> <ul style="list-style-type: none"> Yoga Stretching, Suryanamaskara (Warming-up), Standing Asanas, Sitting Asanas, Prone position Asanas, Supine position Asanas, Relaxation Asanas <p>Unit 2:- Pranayama</p> <ul style="list-style-type: none"> Vibhagiya Pranayama, Sukha Pranayama, Kapalabathi / Basthrika, Anuloma-Viloma/ Nadishuddhi/ Brahamari Pranayama/ Shithali/ Shitkari/ Sadantha/ Shwana-Swasha <p>Unit 3 : - Introduction to Meditation</p> <p style="text-align: center;">Yoga Intramural Competitions</p> <p><i>Note: For Specially Challenged Students, the Program shall be designed at college level</i></p>	28

Pedagogy: The course shall be taught through, Lecture cum Practicals, Interactive Sessions, Materials, Assignments, Seminars, Intramural & Extramurals

Formative Assessment	
Assessment type	Weightage in Marks
Practicals	Internal Assessment- 25 Marks
Total	25 Marks

Semester – I
Skill Enhancement Course (SEC-2)
HEALTH AND WELLNESS
(B.A/B.Sc./B.Com/BBA/BCA & all other UG Courses)

Number of Credits	Number of lecture hours/ semester
1	Theory = 14 Hours Practicals = 14 Hours
Content of Course (1+0+1)	
<p>Unit 1:- Theory</p> <p>a. Meaning , Definition and Importance of Health & Wellness</p> <p>b. Dimensions of Health and Wellness</p> <p>c. Factors influencing Health and Wellness <i>Physical Fitness, Nutrition, Habits, Age, Gender, Lifestyle</i></p> <p>d. Health & Wellness through Physical Activities <i>Yoga, Recreation, Sports & Games, Leisure time activities</i></p> <p>e. Causes of Stress & Stress relief through Exercise and Yoga</p>	14
<p>Unit 2:- Practicals- Exercises for Health and Wellness</p> <p>1. Warming-Up and Cooling Down</p> <p>2. Stretching Exercises</p> <p>3. Strengthening Exercises</p> <p>4. Cardiovascular Exercises</p> <p>5. Flexibility and Agility Exercises</p> <p>6. Assessment of BMI</p> <p>7. Relaxation techniques</p> <p><i>Note: For Specially Challenged Students, the Program shall be designed at college level</i></p>	14
Formative Assessment	
Assessment type	Weightage in Marks
Theory and Practical	Internal Assessment - 25Marks
Total	25 Marks

Prakashan
DIRECTOR
 KOSHYS INSTITUTE OF MANAGEMENT STUDIES
 # 31/1, Kadusonappanahalli,
 Kannur Po, Hennur-Bagalur Road,
 Bangalor-562 149

BANGALORE UNIVERSITY

CREATIVITY AND INNOVATION

**B.Com/BBA/BHM/5 years Integrated Course in Commerce for VI Semester under
Mrudukousalya.**

Max Marks: 100

Max time: 42 hrs.

Objectives

1. To give an insight into creativity and innovation
2. To develop an appreciation for them among students, and
3. To enhance sensitivity to creativity and innovation

Module 1: Overview of Creativity

10 Hours

Meaning and concept of creativity - Creativity Process- Nature and characteristics of creativity – Factors affecting creativity – understanding creativity from studying the profiles of most creative personalities.

Module 2: innovation Management

20 Hours

Meaning and Importance – Difference with Creativity, Invention and Discovery – Process – Typology – Case Studies on Innovation business ideas like Red bus, Flip fart, Ola, Big Basket, methods and techniques – organizational Aspects – Economic Aspects like venture capital, angel investors – Evaluation of Effectiveness of Innovation – Legal Aspects like IPR, patent etc.

Pedagogy

The pedagogy needs to explore the following

- Videos on You tube
- Case studies
- Interaction with creative persons and Innovators
- Demonstration by students.

Module 3: Creativity and various Forms of Arts

12 Hours

Understanding the forms and characteristics of Various Painting Traditions (cave paintings, Ajanta murals, Indian miniatures, Traditional & Folk Arts), Sculpture (Indian sculpture & Temple architecture), contemporary Art forms – Art & Architecture (Photography, Films, Graphic Animation and Digital Art), Performing Arts (Music, Dance and Theatre), and Poetry & Literature with examples.

References Books

- Vinnie Jauhari & Sudhanshu Bhushan, "Innovation Management". Oxford University Press, 2014
- Sholmo Maital, DVR Seshadri, "Innovation Management", Response Books 2007
- Indian Art by Partha Mitter
- Art of India pre- history to present by Frederick M. Asher
- Contemporary Indian Art and other realities by Yashodara Dalmia

Websites

- www.redbus.in
- www.olacabs.com
- www.flipkart.com
- www.bigbasket.com
- Performing Arts- Wikipedia
- Digital Art- Wikipedia
- Graphics and Animation - Wikipedia
- Browse Wikipedia as and when necessary

M.K. Sridhar

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Jnana Bharathi Campus,
Bangalore - 560056.

BANGALORE UNIVERSITY

Soft Skills ('Mrudu Kousalya') Paper
3rd Semester, B.Sc/BCA from 2015-16

CULTURE, DIVERSITY AND SOCIETY

2 Credits

Max. Marks: 100
Hours of Teaching: 42

Objectives

- To help B.Sc. and B.C.A. students gain a better understanding and comprehension of Indian culture, diversity and society.
- To instil in the students a healthy respect for the rich diversity in Indian society and culture.
- To help them understand the problems of rural society.
- To develop in them the secular values of tolerance, communal amity and peaceful co-existence.
- To help them address the contemporary challenges before Indian society like communalism, ethnocentrism and gender discrimination.
- To remind the youth that they have a key role to play in the promotion of national integration, and in promoting the unity and integrity of the country.

Syllabus

Unit-1: Understanding the Diversity of Indian Society

(12-14 Hours)

- Geographical diversity. 5 Hrs.
- Religious diversity. 3 Hrs.
- Cultural diversity. 2 Hrs.
- Unity in Diversity. 2 Hrs.

Unit-2: Family, Caste, Village and Women in India

(12-14 Hours)

- Family as a basic institution of Indian Society; Indian family in transition. 3 Hrs.
- Social stratification and disparities; the Caste System and its evils; the predicament of the weaker sections: Scheduled Castes and Tribes; Backward Classes and Religious Minorities. 4 Hrs.
- Rural society and its problems; Rural-Urban migration. 3 Hrs.
- Gender Discrimination; Violence against women; Measures to improve the status of women. 3 Hrs.

Unit-3: Contemporary Challenges before Indian Society**(12-14 Hours)**

- Communalism and Religious Fundamentalism. 2 Hrs.
 - Regionalism and Ethnocentrism. 2 Hrs.
 - Globalization and mono-culturalism; *McDonaldization*. 2 Hrs.
 - Child labour; Migrant labour; Bonded labour; Contract labour. 4 Hrs.
 - Mass Media and its impact on society. 2 hrs.
-

Reference List

- Beteille, Andre, *Social Inequality*, New Delhi, OUP, 1974.
 - Bose, N.K., *Culture and Society in India*, Bombay, Asia Publishing House, 1967.
 - Deshpande, Satish, ed., *The Problem of Caste*, Orient Blackswan, 2014.
 - Dube, S.C., *Indian Village*, London, Routledge, 1955.
 - Dube, S.C., *Society in India*, New Delhi, National Book Trust, 1990.
 - Jodhka, Surinder, *Village Society*, Orient Blackswan, 2012.
 - Lannoy, Richard, *The Speaking Tree: A Study of Indian Society and Culture*, New Delhi, OUP, 1971.
 - Majumdar, D.N., *Races and Cultures of India*, Bombay, Asia Publishing House, 1958.
 - Mukherjee, D.P. *Diversities*, Delhi, People's Publishing House, 1958.
 - Satyamurty, T.V., *Region, Religion, Caste, Gender and Culture in Contemporary India*, New Delhi, OUP, 1996.
 - Srinivas, M.N., *India: Social Structure*, New Delhi, Hindustan Publishing Corporation, 1980.
-

Scheme of Examination

End-Semester Examination:	70 marks
Internal Assessment:	<u>30 marks</u> (Test/s: 20 marks; Seminar: 5 marks; Project: 5 marks)
Total:	<u>100 marks</u>

Question Paper Pattern for End-Semester Examination

- a. 40 Multiple-Choice Questions x 1 mark = 40 marks
 - b. 15 Multiple-Choice Questions x 2 marks = 30 marks
- Total = 70 marks**
-

Eligibility for Teaching

The Paper shall be taught by a qualified Post-Graduate teacher from the Arts/Social Sciences/Humanities faculty, preferably from the Department of Sociology. If the Sociology teachers are available in the college, it shall be taught by them. If the Sociology teachers are not available, other faculty from the Arts/Social Sciences/Humanities can teach the paper.

BANGALORE UNIVERSITY

Soft Skills ('Mrudu Kousalya') Paper

3rd Semester B.A./B.Com./B.B.M./B.H.M. from 2015-16

SCIENCE AND SOCIETY

2 Credits

Max. Marks: 100

Hours of Teaching: 39-42

Objectives

We inhabit a world today that is shaped significantly by Science and Technology(S&T). S&T has enriched our lives and proved to be beneficial in our livelihoods. At the same time, many of the products of S&T pose challenges, and in ways, even threaten the existence of societies. This course, meant for students of the humanities/commerce streams, is to provide an overview of the nature of S&T and its interaction with society. It is meant to provide a broad introduction to the most significant discoveries and inventions of modern science that have changed our lives and to bring into focus the need for developing a critical appraisal of the issues related to the connection of S&T with society.

Notes to the Instructor(s)

1. All the units under this syllabus may be taught by any qualified science Post-Graduate teacher. However, the units may be taught in collaboration with the concerned faculty.
2. **Unit I (A):** A brief introduction to science and the practice of the scientific method as it has come to be understood in the 20th century, with a historical outline that provides a flavor of the developments that led to modern science and the contributions of different civilizations in this direction.
Unit I (B): A discussion on how the discoveries of science transform to technologies and also how technologies have enabled to ask new scientific questions with suitable examples.
3. **Unit II:** This unit explores through specific examples, the discoveries in science that have profoundly impacted civilizations. It is to provide some basic information and introduce some of the consequences of the products of these discoveries on the safety of humans.
4. **Unit III:** This unit is to explore the impact of S&T on socio-economic sphere and the lives of individuals. It will also delve into environmental issues concerned with the deployment of technologies on a large scale.

Unit I: Introduction to Science:

(13 Hours)

A. What is Science & History of Science

(4 hrs.)

- *What is Science? The revolutions in Physics - Contributions of Copernicus and Galileo; A brief history of the Renaissance in Europe; Age of Enlightenment; Industrial Revolution; Science in the 20th century.*

- *Modern Science and the Scientific Method* (2 hrs.)
A discussion on hypothesis, experimentation, criteria for experimentation, theorizing, and the open-ended nature of the scientific quest
 - *Science in other Cultures* (2 hrs.)
A brief exploration of science and technology in pre-modern era with emphasis on India in areas of Mathematics, Metallurgical Sciences, Medicine and Health
- B. The interdependence of Science and Technology
- *Molecular basis of disease and vaccination* (1hr.)
 - *Laser and photonics applications* (1 hr.)
 - *Microscopy and applications* (1 hr.)
- C. Science and the Public (2 hrs.)
- *Discussion on the need for an informed public in a democracy about S&T, Science policy and research funding, S&T and development*

Unit II: Modern Science and its impact on Societies: (13 Hours)

- *Theory of Evolution: A lecture summarizing the modern theory of evolution of species and its implications* (1 hr.)
- *Discovery of Antibiotics: What is an antibiotic and how does it work? A brief history of the discovery of antibiotics and its impact on health. Adversities due to misuse of antibiotics* (2 hrs.)
- *Soaps, Detergents, Polymers and Chemicals: Their use and abuse* (2 hrs.)
- *Atomic Energy : Introduction to fission and fusion reactions, atomic reactors and power plants; nuclear weapons; Chernobyl accident* (2 hrs.)
- *Space Sciences: History of space exploration; Sputnik and US space programme; Modern satellites, Applications in weather prediction and analysis; remote sensing with reference to Indian space programme.* (2 hrs.)
- *Genetics and human health: Introduction to gene, DNA and basis of heredity; some issues of health linked to genetics* (2 hrs.)
- *Nanotechnology, Smart materials: Introduction to nanotechnology and examples of some devices that use nanotechnology. A brief survey of smart materials* (2 hrs.)

Unit III: Science, Life and Livelihoods: (13 Hours)

- *India's agricultural productivity and dairy development: The Green and White Revolutions; The Gene Revolution and GM Crops* (3 hrs.)
- *Information Revolution: The impact of internet and web-based technologies* (2 hrs.)
- *Impact of high-tech devices on emotional, social and cognitive facets of humans* (2 hrs.)
- *Energy issues and renewable energy sources: solar, wind, bio-fuels* (3 hrs.)
- *Climate Change* (3 hrs.)

Reference List

- Bala, Arun, 2008, *The Dialogue of Civilizations in the Birth of Modern Science*, New York, NY: Macmillan.
 - Biswas, Arun Kumar (Edited), 2001, *History, Science and Society in the Indian Context : A Collection of Papers*, The Asiatic Society, xv, 474 p, ISBN : 8172361033.
 - Fouad Abd-El-Khalick, 2005, *Developing Deeper Understandings of Nature of Science: The Impact of a Philosophy of Science Course on Pre-service Science Teachers' Views and Instructional Planning*, International Journal of Science Education , Vol. 27, Iss. 1.
 - Russell, B., (1985), *The Impact of Science on Society*, Psychology Press.
 - Singh, S., K. C. Garg, S. Pruthi, B. Dutt (2001) *Indicators of Indian Science and Technology*, (NISTADS), Allied Publishers.
 - Stanford Encyclopedia of Philosophy: Helen Longino's "The Social Dimensions of Scientific Knowledge" (HTML) [www.http://plato.stanford.edu/entries/scientific-knowledge-social/](http://plato.stanford.edu/entries/scientific-knowledge-social/)
 - University of California, Berkeley: Understanding Science: P. Godfrey-Smith's "The Philosophy of Science" (HTML) <http://undsci.berkeley.edu/article/philosophy>
-

Scheme of Examination

End-Semester Examination: 70 marks

Internal Assessment: 30 marks (Test/s: 20 marks; Seminar: 5 marks; Project: 5 marks)

Total: 100 marks

Question Paper Pattern for End-Semester Examination

a. 40 Multiple-Choice Questions x 1 mark = 40 marks

b. 15 Multiple-Choice Questions x 2 marks = 30 marks

Total = 70 marks

INDIAN CONSTITUTION AND HUMAN RIGHTS

MODULE I

- 1) *An overview of constitutional development*
- 2) *Government of India act 1909,1919,1935*
- 3) *Indian Independence Act 1947.*
- 4) **The Constituent Assembly of India.**

MODULE II.

- 1) **Salient features of the Indian Constitution –**
- 2) **The Preamble –**
- 3) **Fundamental Rights**
- 4) **Directive Principles of State Policy**
- 5) **Fundamental Duties**

MODULE III.

- 1) **Indian federalism,**
- 2) **Centre state relation-**
 - **Distribution of legislative powers,**
 - **Administrative and financial relations between the union and states.**
- 3) **The finance commission**
- 4) **Planning commission**

MODULE IV.

- 1) **Government of the Union**
 - **The Union Executive – the President and the Vice-President – The Council of Ministers and the Prime Minister – Powers and functions**
 - **The Union legislature – The Parliament – The Lok Sabha and the Rajya Sabha, Composition, powers and functions – the role of the Speaker.**
- 2) **Indian judicial system**
- 3) **Government of the State.**

- **The Governor – the Council of Ministers and the Chief Minister – Powers and Functions**
- **The State Legislature – composition, powers and functions.**
- **Human Rights**

MODULE I

An overview of constitutional development

Introduction

India from the beginning of recorded history had to face a long succession of foreign invasions. In the 16th century, the wealth of India attracted a host of European traders to India. The Dutch, the French and the British merchants became the favourable rivals to the earlier traders, the Portuguese. All of them were attracted to India by its fabulous wealth, and none came to settle here. The British traders came to India in the 17th century and certain British traders approached their Queen for a charter to carry on trade with East Indies. The charter was granted in December 31, 1660 and there by the East India Company was given exclusive right to carry on trade with India. During the 17th century the Munhall Empire expanded and reached its zenith in India. After the death of Aurangzeb, the Mughal Empire rapidly disintegrated. This gave East India Company a chance to establish its dominion in India. It began its career of conquest in 1757, the battle of Plessey. A hundred years after the battle, the East India Company established its undisputed sovereignty over the whole of India. By the great revolt of 1857, the company's rule was terminated and the country passed under the direct rule of the British Crown; under the Government of India Act. 1858. The Act was dominated by the principle of absolute imperial control without any popular participation of Indians in the administration of India. The subsequent history of India upto the making of the constitution (1949) is of gradual relaxation of imperial control and the evolution of responsible government.

AN ANALYSIS OF NATIONAL MOVEMENT

The Constitution of India was adopted in, November, 1949 and enacted in January 1950. It was influenced by numerous political system of the world and numerous Acts passed by British Government, especially the Government of India Act 1935. The English East India Company was founded in London in 1600, whose one share holder was Queen Elizabeth I, to have trade with India. Within a span of about 150 years, the company became a territorial power. The company's commercial activities came under cloud and the British Government sought to regulate its affairs and assert sovereignty over the company's expanding territories, until the British Government finally took over region of India in 1958. But for the people of India the rule continued to be the same suppressive and exploitive.

Social and religious renaissance made a ground for political awakening in India. Raja Ram Mohan Roy rightly regarded as the prophet of Indian Renaissance, was, indeed, the father of modern India. The Indian dailies like *Amrit bazar Patrika*, *the Indian Mirror*, *the Hindu*, *the Kesari*, *the Bengali* and like contributed a lot to the growth of Indian nationalism. The English language, the means of transport and communication bring the Indians closer.

Before the birth of Indian National Congress, there had emerged numerous provincial organisations in the country. They were the *British Indian Society*, *the British Indian Association*, *the Bombay Presidency Association*, and *the Mahajan Sabha* etc. The Indian National Congress was founded in 1885 by an English East India Company's retired official, A O. Hume. The first session of Indian National Congress began in Bombay, on December 28, 1885 with W C. Bannerjee, who was the first president, in the chair.

The Indian liberation struggle, spearheaded mainly by the Indian National Congress, witnessed a fairly long period of struggle, passed through reforms (1885 – 1905), the demand for Swaraj (1906 -1928), and sought independence (1929 – 1947), largely a peaceful and non-violent movement. The three major stages through which the Indian national movement passed were: (a) the moderate period, (b) the Extremist period and (c) the Gandhian period.

The moderate period, from 1885 -1905, was led by Hume, Naoroji, Mehta, Rande, Gokhale and the like. These leaders thought of English rule in India as a blessing and related India's social economic development to the just rule of British in the country; their method is limited prayers, petitions, and sending deputations to the authorities in India as well as in England in order to build a favorable public opinion for India. Extremism, was led by Bal Gangadar Tilak , Lala Lajpath Rai, Bipin Chandrapal, and Aurobindo Ghosh . The partition of Bengal which was revoked in 1905 gave birth to the protest movement engulfing whole nation. Together with the anti- partition feelings, there spread *swadesi and boycott activities*; the whole country was ablaze with sentiments full of nationalism. The nationalist movement came to be led by the extremists demanding *Swaraj* with measures such as passive resistance and national wide protests.

The Gandhian era the nationalist liberation struggle began around 1917 and covered almost three decades. With the techniques of non- violent Satyagraha – Gandhi rose from local mass struggle at Champaran, Kheda and Ahamadabad to the nationalist movements. He used the methods including the Non-Cooperation Movement (1920 -1922), the Civil Disobedience Movement (1930 -34), the Individual Satyagraha (1940), and the Quit India Movement (1942). Truth was his goal; non – violence, his means; humanity, his religion. Rabindranath Tagore gave Gandhi the title of *Mahatma*, and the nation, the '*Father*'.

So many legislative provisions were made and administrative reforms were implemented by British India through Indian Council Acts 1861, 1892 etc. The first attempt of British administration to introduce a representative and popular government was made by the Minto-Moreley reforms of 1909.

Indian Councils Act 1909

The Indian Councils Act 1909 is commonly known, as the Morely-Minto Reforms. It was an Act of the Parliament of the United Kingdom that brought about a limited increase in the involvement of Indians in the governance of British India. John Morley, the then Secretary of State for India, and the Governor General of India Minto believed that cracking down on terrorism in Bengal was necessary but not sufficient for restoring stability to the British Raj after Lord Curzon's partitioning of Bengal. They believed that a dramatic step was required to put heart into loyal elements of the Indian upper classes and the growing westernized section of the population.

They produced the Indian Councils Act of 1909 (Morely –Minto reforms). These reforms did not go any significant distance towards the Indian National Congress demand for 'the system of government obtaining in Self-Governing British Colonies'. The Act of 1909 was important for the following reasons. It effectively allowed the election of Indians to the various legislative councils in India for the first. Previously some Indians had been appointed to legislative councils. The majorities of the councils remained British government appointments. Moreover, the electorate was limited to specific classes of Indian nations. The deliberative functions of the Legislative Councils were also increased by the Act. It gave them the opportunity to move resolutions on the Budget and any matter of public interest. An element of election was also introduced in the Legislative Councils at the Centre.

- The system of election introduced by the Act provided for separate representation for Muslim Community. It sowed the seeds of separation which led to the partition of the country. The Act provides that a) Indian Muslims be allotted reserved seats in the Municipal and District Board, in the Provincial Councils and in the Imperial Legislature;
- The number of reserved seats be in excess of their relative population (25 percent of the Indian population); and
- only Muslims should vote for candidates for Muslim seats (separate electorates)

- The number of the members of the Legislative Council at the center was increased from 16 to 60
 - The number of the members of the Provincial Legislatures was also increased. It was fixed as 50 in the provinces of Bengal, Madras and Bombay, and for the rest of the provinces it was 30.
 - The members of the Legislative Councils, both at the Centre and in the provinces, were to be of four categories i.e., ex-officio members (Governor General and the members of their Executive Councils) nominated official members (those nominated by the Governor General and were government officials), nominated non-official members (nominated by the Governor General but were not government officials and elected members (elected by different categories of Indian people)
 - The right of separate electorate was given to the Muslims.
-
- Official members were to form the majority but in provinces non-official member would be in majority.
 - The members of the Legislative Councils were permitted to discuss the budgets, suggest the amendments and even to vote on them; excluding those items that were included as non-vote items. They were also entitled to ask supplementary questions during the legislative proceedings.
 - The Secretary of State for India was empowered to increase the number of the Executive Councils of Madras and Bombay from two to four.
 - Two Indians were nominated to the Council of the Secretary of State for Indian Affairs.
 - The Governor General was empowered to nominate one Indian member to his Executive Council.
 - Subsequently, to this, the Government of India Act 1919, as passed merely to consolidate all the preceding Government of India Acts.

B. MONTAGU –CHELMSFORD REFORMS / GOVERNMENT OF INDIA ACT 1919

The Indian National Congress, which established in 1885, became more active during the First World War and started its campaign for self-government. In response to this popular demand, the British government declared its policy in 1917 through Montagu (Secretary of state) and Chelmsford (Governor General) report. This led to the enactment of an Act called Government of India Act 1919. The main features of the Act were as follows.

i) **Introduction of ‘Dyarchy’ in the Provinces:** The Act introduced an absurd system of administration in the Provinces known as ‘Dyarchy’. The subjects of administration were to be divided: Central and provincial. The ‘Central’ subjects were exclusively kept under the control of Central government. The ‘provincial subjects’ were sub-divided into ‘transferred’ and ‘reserved’ subjects. The ‘transferred’ subjects assigned to the provinces were to be administered by the ‘Governor’ with the aid of ministers, who were responsible to the legislative councils. The ‘reserved subjects’ were to be administered by the Governor and Executive Council, without any responsibility to the Legislative Council.

ii) **Relaxation of central control over the Provinces:** The rules made by the Government of India Act of 1919 were known as ‘Devolution Rules’. It separates the subjects of administration into two categories: Central and Provincial. The subjects which were brought under the category ‘Central’ were subjects of all India importance. The matters relating to the administration of ‘provinces’ were classified as ‘provincial’. This was actually a relation of control over provinces, even in legislative and financial matters.

The provinces could run the administration with the aid of revenues collected by provinces themselves. The provincial budgets were separated from central budget. The provincial legislature was empowered to present its own budget and levy its own taxes.

The devolution of power should not be like a 'Federal' distribution of powers. The provinces got power by way of delegation from the Centre. The central legislature, retained be power to legislate for the whole of India. The control of the 'Governor General' over provinces was also retained by laying down a provincial bill which would not be because the law unless it was also assented by be Governor General. The Act empowered the Governor to reserve a bill for the consideration of Governor General.

iii) The Indian legislature made more representative.

The Central Government, led by the Governor General continued to remain responsible only to the British Parliament, through the Secretary of state. Nevertheless, the Indian legislature was made more representative and bicameral. The Indian Legislative Council was transformed into a bi-cameral legislature existing of council of states (upper house) and Legislative Assembly (Lower house). The elections were arranged on a communal and social basis, developing the 'Morely- Minto' device. The reforms of Act 1919 failed to fulfil the aspirations of the people in India and led to an agitation by the Congress under the leadership of Gandhiji (Non – cooperation movement)

Government of India Act 1935

The non –cooperation movement led the British Government in 1927, to appoint a statutory commission, as envisaged by the Government of Indian Act 1919. The commission was appointed to enquire into and report on the working of the Act. The commission was headed by Sir John Simon and reported in 1930. The report was considered by the round table conferences consisting the delegates of British government, and of British India and the rules of Indian states. A white paper was prepared on the basis of this conference. The British government gave the joint select committee the task of formulating the new Act for India. Lord Linlithgow was appointed as the president of the committee, which consisted of members from the two houses of British parliament, representation of British India and princely states. The bill, after proper discussion and passage in two house of British Parliament, was enforced as the 'Government of India' Act 1935, in July 1935.

The main features of the Act of 1935 were:

- i) The Act promised a federation of India, comprising both the provinces and the Indian states as units. It was optional for the Indian states to join the federation. Since a specified number of rulers of Indian states had not signed the 'Instruments of Accession' the Federation envisaged by the Act of 1935, never came to being. The central government continued to function in accordance with the 1919 Act
1. A Federation of India was promised for, comprising both provinces and states. The provisions of the Act establishing the federal central government were not to go into operation until a specified number of rulers of states had signed 'Instrument of Accession'. Since, this did not happen, the central government continued to function in accordance with the 1919 Act and only the part of the 1935 Act dealing with the provincial governments went into operation.
2. The Governor General remained the head of the central administration and enjoyed wide powers concerning administration, legislation and finance.
3. No finance bill could be placed in the Central Legislature without the consent of the Governor General.
4. The Federal Legislature was to consist of two houses, the Council of State (Upper House) and the Federal Assembly (Lower House).
5. The council of State was to consist of 260 members, out of whom 156 were to be elected from the British India and 104 to be nominated by the rulers of princely states.
6. The Federal Assembly was to consist of 375 members; out of which 250 were to be elected by the Legislative Assemblies of the British Indian provinces while 125 were to be nominated by the rulers of princely states. The Central Legislature had the right to pass any bill, but the bill required the approval of the Governor General before it became Law. On the other hand, Governor General had the power to frame ordinances.
7. The Secretary of State was not expected to interfere in matters that the Governor dealt with, with the help of Indian Ministers.

8. The provinces were given autonomy with respect to subjects delegated to them.
10. Dyarchy, which had been established in the provinces by the Act of 1919, was to be established at the Centre. However, it came to an end in the provinces.
11. Two new provinces Sindh and Orissa were created.
12. Reforms were introduced in N.W.F.P as were in the other provinces.
13. Separate electorates were continued as before.
14. One-third Muslim representation in the Central Legislature was guaranteed.
15. Autonomous provincial governments in 11 provinces, under ministries responsible to legislatures, would be setup.
16. Burma and Aden were separated from India.
17. The Federal Court was established in the Centre.
18. The Reserve Bank of India was established.

Both the Indian National Congress and the Muslim League opposed the Act, but participated in the provincial elections of winter 1936-37, conducted under stipulations of the Act. At the time of Independence, the two dominions of India and Pakistan accepted the Act of 1935, with few amendments, as their provisional constitution.

The Period after Government of India Act, 1935

The demand for a competition made by the people of India, without outside interference, was officially asserted by the INC in 1935 itself. Even though the Act of 1935 were opposed by the prominent parties, viz, INC and Muslim League, elections to the provincial assemblies were held in 1937. The INC formed ministries in major provinces and history proves that the ministries were able in administration and tackled the problems of basic education and adult literacy. In 1938, Pandit Nehru definitely formulated the demand for Constituent Assembly and the Working Committee of Congress in 1938 reiterated it. In 1940, the coalition government in Britain recognized this demand and in 1942, sent Sir Stafford Cripps to India with a draft declaration of proposals (Cripps proposals). The Cripps offered “Dominion Status” to India and the right of secession from the common wealth. It also proposed that the provinces and states would be given the option of not acceding to any constitution and again the right to keep themselves as states independent of the Indian Union. INC rejected the proposal and encountered the opposition of the entire range of Indian public opinion.

Cabinet Mission Plan

After the rejection of the Cripps Proposals, followed by the dynamic “Quit India Movement” various attempts were made to reconcile the Indians ‘Simla conference’ was held at the instance of the Governor General, Lord Wavell (Wavell Plan). All these having failed, the British Cabinet sent three of its members, including Cripps, to make another attempt. The Cabinet Mission arrived in India in March 1946. The members of the mission together with Wavell, carried on long negotiations with Indian leaders on the two issues of an interim government and principles and procedures of framing a new constitution giving India freedom. The Cabinet Mission came out with a plan but the Congress and Muslim League could not reach an agreement on the future constitution. The plan rejected the Jinnah’s demand of Pakistan. Initially the long term plan envisaged in the proposal was accepted by both Congress and Muslim League, but the League withdrew its acceptance of the long term plan and called on the Muslim to go in for the ‘Direct Action’ to achieve Pakistan.

Interim Government

The Cabinet Mission plan also contained a provision for setting up a short term interim government. After the failure of care-taker government a Congress dominated government under the leadership of Nehru was sworn in on September 02, 1946. Muslim League also joined the government on October 26, without giving up its Direct Action Programme. In July 1946, elections to the Constituent Assembly were held and the Congress and League were returned with an overwhelming majority. The League refused to attend the Cabinet Assembly which had started its functioning, from December 09, 1946. The programme of

'Direct Action' inaugurated by Muslim League transformed the whole of Indian scene to communal riots on an unprecedented scale. Large scale Muslim attacks began on the Hindus at different Muslim dominated parts of India. Thousands were killed. The widespread riots and massacres changed the views of the Interim government led by Nehru and they had began to think in terms of two Dominions. Prime Minister Attlee who came to power in Great Britain, after IIInd world war, made a speech in the British Parliament, and fixed 1948 June as deadline for the transfer of power to Indians, whether as a whole or in some areas or in such other way as may seem reasonable for the best interest of the Indian people. Viceroy Wavell was replaced by Mount Batten who had given plenipotentiary powers and charged with the task of transferring power to India. Mountbatten after discussions with the Congress leaders and convinced them that the only alternative was the partition of India. This agreement has come to be known as the '3rd June plan' or "Mountbatten plan". The 3rd June Plan of 1947 included the principles:

- 1) Principle of partition of India was accepted by British Government.
 - 2) Successor governments would be given dominion status.
 - 3) Implicit right to secede from the British commonwealth
- The Governor-General announced that the transfer of power would take place by August 15, 1947. This Mount Batten Plan became the basis of Indian Independence Act 1947 which ratified the British Parliament on July 18 and implemented in 15th August 1947.

The Indian Independence Act, 1947

The Prime Minister of Britain, Clement Attlee announced on 20 February 1947 that:

- i) The British Government would grant full self government to British India by June 1948,
- ii) The future of princely states would be decided after the date of final transfer is decided and
- iii) The Indian Independence Act was the implementation of June 3 plan.

On the basis of Mount Batten plan (3 June Plan), the British Parliament passed an Act, called the Indian Independence Act, 1947. The Act partitioned India into two independent dominions of India and Pakistan. The Act received the royal ascent on 18th July, 1947 and the two dominions came into being on 15th August, 1947. The most important provisions of the Act were:

- The division of British India into the two new and fully sovereign dominions of India and Pakistan, with effect from 15 August 1947.
 - The partition of the provinces of Bengal and Punjab between the two new countries;
 - The establishment of the office of Governor- General in each of the two new countries, as representative of the Crown;
- The conferral of complete legislative authority upon the respective Constituent Assemblies of the two new countries;
- The termination of British sovereignty over the princely states with effect from 15 August 1947 (this was intended to encourage the various rulers to accede to one or other of the two new countries);

The Act also made provision for the division of joint property, etc. between the two new countries, including in particular the division of the armed forces.

Dominion of India

Lord Mountbatten, the last Viceroy, was retained as the Governor-General of India. Jawaharlal Nehru became the Prime Minister of India and Sardar Vallabhbhai Patel became the Deputy Prime Minister of India.

Dominion of Pakistan

Mohammed Ali Jinnah became the Governor-General of Pakistan, and Liaquat Ali Khan became the Prime Minister of Pakistan.

Three princely states geographically inalienable to Pakistan joined the Dominion.

THE CONSTITUENT ASSEMBLY OF INDIA:

The Constituent Assembly of India was set up as a result of negotiations between the Indian leaders and members of the British Cabinet Mission. The constituent assembly was elected indirectly by the members of the Provincial legislative assembly. The Congress secured an overwhelming majority in the general seats while the Muslim League managed to sweep almost all the seats reserved for Muslims. The Congress had majority of 60%. There were also members from smaller parties like the Scheduled Caste Federation, the Communist Party of India and the Unionist Party.

It first met on December 9, 1946 in Delhi, while India was still under British rule. It originally included the provinces that now compose Pakistan and the representation of the princely states of India. In June 1947, the delegations from the provinces of Sindh, East Bengal, Baluchistan, West Punjab and the North West Frontier Provinces withdrew in order to form the Constituent Assembly of Pakistan in Karachi. The Constituent Assembly took almost three years (two years, eleven months and seventeen days to be precise) to complete its historic task of drafting the Constitution for Independent India. During this period, it held eleven sessions covering a total of 165 days. Of these, 114 days were spent on the consideration of the Draft Constitution. As to its composition, members were chosen by indirect election by the members of the Provincial Legislative Assemblies according to the scheme recommended by the Cabinet Mission. The arrangement was (i) 292 members were elected through the Provincial Legislative Assemblies; (ii) 93 members represented the Indian Princely States; and (iii) 4 members represented the Chief Commissioners Provinces. The total membership of the Assembly thus was to be 389. However, as a result of the partition under the Mountbatten Plan of 3 June, 1947, a separate Constituent Assembly was set up for Pakistan and representatives of some Provinces ceased to be members of the Assembly. As a result, the membership of the Assembly was reduced to 299.

On 13 December, 1946, Pandit Jawaharlal Nehru moved the Objectives Resolution.

The Resolution was unanimously adopted by the Constituent Assembly on 22 Jan 1947.

Late in the evening of 14 August, 1947 the Assembly met in the Constitution Hall and at the stroke of midnight, took over as the Legislative Assembly of an Independent India. On 29 August, 1947 the Constituent Assembly set up a Drafting Committee under the Chairmanship of Dr. B.R Ambedkar to prepare a Draft Constitution for India. While deliberating upon the draft Constitution, the Assembly move, discussed and disposed of as many as 2,473 amendments out of a total of 7, 635 tabled.

The Constitution of India was adopted on **26 November, 1949** and the hon'ble members appended their signatures to it on 24 January, 1950. In all, 284 members actually signed the Constitution. The Constitution of India came into force on 26 January, 1950. On that day, the Assembly ceased to exist, transforming itself into the Provisional Parliament of

India until a new Parliament was constituted in 1952. Dr. Sachchidananda Sinha was the first President (temporary Chairman of the Assembly) of the Constituent Assembly when it met on December 9, 1946. Dr. Rajendra Prasad then became the permanent President of the Constituent Assembly, and would later become the first President of India. The Vice President of the Constituent Assembly was Professor Harendra Kumar Mukarjee

a) SALIENT FEATURES OF THE INDIAN

Every constitution aims to build up a political structure based upon certain principles and ideologies. Some of these principles vary from constitution to constitution. These variations are the product of varying conditions and circumstances that determine the very nature of a constitution. Indian constitution is not an exception to this rule. Indian constitution has its own characteristics. The theory, philosophy, and ideology that influenced the constitution of India were the result of the ideological background and philosophical knowledge of the members of Constituent Assembly, which drafted the constitution.

The most important ideological groups represented in the Constituent Assembly were the socialists, the Gandhians and the rightists. The socialist groups were divided into two: the Marxian socialists and democratic socialists. Marxians advocated a revolutionary reconstruction of society; while democrats wanted to transform society through peaceful parliamentary methods. Both these groups were opposed to the private ownership of the important means of production. The rightist group, supported the interests of bourgeoisie and landed class. The Gandhians criticized the capitalist mode of production. They wanted the renewal and promotion of village and small scale industries. In the political field, they proposed a decentralized democracy based on self-sufficient village panchayats. All these ideologies have some influence on the constitution of India. Besides these ideological and philosophical commitments, the constitution of India continued the constitutional developments that took place under the British, retaining the basic concepts of the Government of India, Act 1935. Dr. Subhash Kashyap observes, "the constitution of India is a most comprehensive document. It is unique in many ways. It cannot be fitted in any particular model. It is a blend of the rigid and flexible, federal and unitary and presidential and parliamentary. It attempts a balance between the fundamental rights of the individual on the one hand and the socio-economic interests of the people and security of the state on the other. It represents a via-media between the principles of parliamentary sovereignty and judicial supremacy".

The following are some of the salient features of the Indian constitution.

1. **Longest Written constitution:** The Republic of India has a written and enacted constitution. The original constitution contains 395 Articles divided into 22 parts. In the later period, a number of amendments were made on the constitution. Provisions were either added or deleted. Even after these amendments Indian constitution still remains as the largest written constitution in the world.
2. **Popular Sovereignty:** Indian constitution upholds popular sovereignty. The will of the people that prevails ultimately in the affairs of the state. The sovereignty of the people is proclaimed in its opening words itself. The preamble begins with the word "We the people of India". Elections to the Indian parliament and state legislatures shall be on the basis of adult suffrage. Governments derive their authority from the people, who elect their representatives at regular intervals. The idea of popular sovereignty is affirmed in several places in the constitution.
3. **Sovereign, Democratic, Republic:** The preamble of the constitution declares that India to be a sovereign democratic, republic. The Dominion status established under the Independence Act of 1947 has been terminated and India emerged itself as a completely independent, sovereign state. India is totally 'democratic' because the real power emanates from the people. The word 'Republic' denotes that the state is headed by a president, elected indirectly by the people.
4. **Rigid and Flexible:** Indian constitution is partly rigid and partly flexible. The procedure for the amendment of Indian constitution is neither very easy, as in England, nor very rigid as in USA. Indian parliament has given the power to amend many provisions of the constitution by a simple majority, as it required for general legislation. Some other provisions may be amended by a special majority of the Indian Parliament. i.e. a majority not less than 2/3 of the members of each house present and voting, which again, must be a majority of the total membership of the House. A very few provisions, of the Indian constitution required a further ratification of not less than 1/2 of the state legislatures for its amendment.
5. **Cabinet System of Government:** Indian constitution established cabinet system of government both at the centre and in the states. The governments should be always responsible to respective popular chambers of legislatures. At the centre, the Cabinet consists of a Prime Minister and a number of ministers.

Cabinet is the policy formulating and executing body of the government. An executive system always responsible to the popular chamber of the legislature is a contribution of Britain to the world.

6. **Secular State:** The commitment to the goal of 'secularism' has been spelled out in clear terms. The word 'secular' has been added in the preamble, by 42nd amendment of the constitution (1976). In India there is no official or state religion. It treats all its citizens alike and give them equal opportunities. Indian constitution, guarantees freedom of religion to all persons.

7. **A Federal System with Unitary bias:** Normally in India the system of government is federal but the constitution enables the federation to transform into a Unitary State. The constitution establishes a Federal polity with division of powers. India has a written constitution, with dual polity and division of powers between the centre and states. There is also a provision for a Supreme Court, the guardian of the constitution. The Supreme Court decides all disputes which arise between the states and centre. Not outstanding with all these features of a federal set up, Indian constitution has a unitary bias too. Eg. After distributing the governmental powers in three lists: Union list, state list, and concurrent list; the residual subjects are left with the centre, by which the centre is made more powerful than the states. Even in matters relating to concurrent list, the Union government has the final say. Besides that the head of state (Governor) is appointed by the President and they as mere agents in the states. At any time, the centre can, declare emergency in the states (Art 356) and can take over the administration of any state.

8. **Universal Franchise:** Act 326 ensures the adoption of Universal adult suffrage. It enables any citizen of India to cast his vote, without considering any caste, colour, sex, qualification on property or the like. The suffrage in India is wider than that in Great Britain and U.S.A. The concept of popular sovereignty which underlies in the declaration in the preamble would have been hollow unless the franchise was extended to the entire population. Another creditable point of the constitution is the abolition of communal representation. In the constitution, there was no reservation of seats except for the SCs and STS and for the Anglo Indian community.

9. Compromise between Judicial review and parliamentary superiority.

Indian parliament is not supreme as that of British parliament. At the same time Indian judiciary is not as supreme as in USA. Indian constitution follows a via-media between the two. Indian constitution endows the judiciary with the power of declaring any law as unconstitutional, if it is beyond the competence of legislature; or if it is in contravention of the fundamental rights guaranteed by the constitution. Major portions of the constitution is liable to be amended only by the parliament by special majority, the judiciary proves too obstructive.

Ultimately the fact remains that the legislature must be supreme and the judiciary must not be interfered in such measures as social reforms.

10. **No double citizenship:** Double citizenship has not been provided for all citizens of India, even though India has a federal system of administration. In USA, double citizenship has been provided. All Indians irrespective of their domicile, enjoy single citizenship.

11. **Impartial and independent Judiciary.** Democratic freedom is meaningful only in the presence of an impartial and independent judiciary. The framers of the Indian constitution were highly conscious of this fact. The judiciary of India is not an agent or subordinate of the Government of India. If the Judiciary is a subordinate or agent of the government; it could not be trusted as an impartial interpreter of the constitution, and conflicts and controversies between the centre and the states. These facts compelled the constitution makers to adopt judicial independence as a basic principle of Indian constitution.

12. **Fundamental Rights:** The constitution of India, includes a separate chapter which guarantees the fundamental rights to all citizens. These fundamental rights are justifiable and inviolable. They are binding on the legislature as well as executive. A citizen of India has the right to seek the protection of the judiciary, if any of the fundamental rights is violated. Any parliamentary act or executive order can be declared null and void by the Supreme Court/ High Courts, if it violates any of the fundamental rights, guaranteed by the constitution.

13. **Fundamental Duties.** Article 51 A (Part IV A) was incorporated to the Indian constitution in 1976 by the 42nd Amendment. It introduced fundamental duties, which cannot be judicially enforceable. This incorporation was an attempt to balance individual freedom with individual duties.

14. **Directive Principles of State Policy:** Another distinctive feature of Indian constitution is the Directive principles of state policy. This feature has been taken from Irish constitution. The philosophy behind the Directive Principles is that the state and its agencies are commanded to follow certain fundamental principles while they frame their policies. These principles are assurances to the people. At the same time, they are directions to the Government, both central and state. The percepts of Directive Principles are not justiciable and hence they are not enforceable by a court order. They are designed to serve as a guide for the Union Parliament and the state assembles in framing new legislation.

15. **Unamendable basic feature:** Indian constitution has a basic structure, which cannot be amended. Democracy, federal and republican character, secularism, judicial review, system of free and fair elections etc. are some of the features, which constitute the basic structure of Indian Constitution.

Conclusion

The constitution of India is remarkable for many outstanding features. These features will distinguish it from other constitutions. There were members in the Constituent Assembly who criticized the constitution as a 'carbon copy of the Act of 1935', as a 'paradise of lawyers'; as a 'borrowed constitution' etc. But the fact that it has survived for more than sixty years; belies the apprehensions of the critics.

THE PREAMBLE

An introductory statement in speech or writing to a statute or constitution is called as 'Preamble'; Every written constitution has a preamble. It embodies the objectives or basic purposes of it. It states the object or policy which it is designed to achieve. The preamble of Indian constitution was an opportunity for the framers of the constitution to give expressions to the dreams of a new order they were dreaming for years. Naturally they draw up a preamble, which embodies the fundamental principles of that new order. The first meeting of the Constituent Assembly, was held on December 09, 1946, had taken the task of formulating the objectives and guiding principles of the constitution. The "objectives resolution" moved by Jawahar Lal Nehru on December 13, 1946, was adopted by the Constituent Assembly on January 22, 1947 and has been appreciated as the nature of the preamble of the Indian Constitution. The Drafting Committee of the Constituent Assembly while formulating the 'preamble' in the light of the 'objectives resolution' felt that the preamble restricted to defining the essential features of the new state. The Committee adopted the expression 'Sovereign Democratic Republic', in place of 'Sovereign Independent Republic', as used in the "objective resolution". The Committee also adopted the clause 'fraternity' which did not see in the 'objectives resolution. By 42nd constitutional amendment Act of 1976, two amendments were made in the original preamble and the preamble after it, now reads as follows:

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

JUSTICE, social, economic and political;

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

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

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

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

Reading through the preamble, one can see the purposes that it serves. They are the declaration of (i) the source of the constitution (2) types of govt. (3) objection of the political system and (4) the date of its adoption.

(i) **Source of the constitution:** The opening words “We the people of India” and the closing words, ‘adopt enact and give to ourselves this constitution’ convey that the constitution emanated from the ‘people’ and the sovereignty under the constitution is vested in the people. Most of the modern constitutions emphasize the same principles.

Types of Government: The polity (Type of government) enacted adopted and assumed in the preamble by the people of India themselves, is ‘Sovereign Socialist, Secular Democratic, Republic’. The words ‘socialist’ and ‘secular’ were added in the preamble by 42nd amendment of the constitution.

The expression ‘sovereign’ signifies that the Republic is externally sovereign. By the passing of the ‘Indian Independence Act, 1947’ India ceased to be a dependent of British Empire and from 15th August 1947 to 26th January 1950, it remained with a ‘dominion status’ in the British commonwealth of nations. But, with the inauguration of the Indian constitution. On 26th January 1950, India became ‘a Sovereign Republic’ However, India is still a member of commonwealth of nations. This voluntary membership of India in the commonwealth indicates a free association with no legal obligation.

The concepts of socialism were implicit in the constitution in a number of provisions in Part IV dealing with Directive Principles of State Policy (Eg. Art. 38,39,40&41) Articles 14, 15 16 and 25 to 28 are intended to ensure the establishment and maintenance of ‘secular’ state in India. In order to explicit these concepts in the preamble itself, the 42nd amendment (1976) added the words ‘Socialist, Secular’ in it. The word “socialist” added in the preamble is intended to bring out that ours is a socialist state which aims to secure to its people ‘justice’ – social economic and political. Its inclusion in the preamble was objected on the ground that it is a vague expression and means different things to different persons. The term ‘socialism’ was defined by Janatha Government in the 45th constitutional amendment bill; but the bill was defeated in Rajya Sabha and hence the expression ‘socialism’ still remains undefined.

The word ‘secular’ has also been added in the preamble by the 42nd amendment of 1976. It gives the idea that India shall have no religion of its own and all persons shall be equally entitled to profess, practice and propagate religion. Its omission in the original preamble was deliberate, because Prof. K.T Shah made two attempts for that by suggesting amendments but, every time he was opposed. Dr.

B.R. Ambedkar thought that the principles of ‘secularism’ are already enshrined in the chapter on Fundamental Rights.

The term ‘Democratic’ is comprehensive. In a narrow political sense, it refers only to the form of government, a representative and responsible system. The administrators of the affairs of the state are chosen by the electorate and accountable to them. But in the broadest sense, it embraces social and economic democracy.

The term ‘Republic’ implies an elected head of the state. A democratic state may have an elected or hereditary head. Britain has a hereditary head (The king/Queen). Under a republican form, the head of the state, is always elected for a prescribed period. In USA, the President, is the head and elected for a term of four years. India has chosen the system of electing one of its citizen as its President, for a term of five years.

Objectives of the Indian Republic

The preamble proceeds further to define the objectives of the Republic. These

Objectives are four: Justice, Liberty, Equality and Fraternity.

Justice implies a “harmonious reconciliation of individual conducts with the general welfare of the society” The essence of justice is the attainment of the common good. It embraces the entire social, economic and political spheres of human activity.

The term ‘liberty’ is used in the Preamble not merely in a negative but also in a positive sense. It signifies not only the absence of any arbitrary restraint on the freedom of the individual action, but also the creation of conditions for the fullest development of the personality of the individual. Since society is constituted of individuals, social progress depends on the progress of the individual.

'Equality' is complementary to 'Liberty'. Equality does not mean that all human beings are equal mentally and physically. It really signified the equality of status, the status of free individuals and equality of opportunity. Equality of opportunity implies the availability of opportunity to everyone to develop his or her potential capacities. The concept of 'equality' envisaged in the Preamble as it embraces both equality of status and of opportunity.

Finally, the Preamble signifies the objective of 'Fraternity'. The concept of fraternity ensures both the dignity of the individual and the unity and integrity of the nation. The spirit of brotherhood among citizens was first emphasized by the French revolution and ever since, it has become a slogan of universal application. In the declaration of Human Rights, the UNO proclaims "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". This spirit of brotherhood is emphasized by the use of term 'fraternity' in the Preamble

4) Date of Adoption.

The last part of the Preamble mentions the date i.e., 26th November 1949, on which the Constituent Assembly adopted, enacted and gave this constitution to the nation. The constitution came to force, only on 26th January, 1950. The preamble of the constitution of India is one of the best of its kind ever drafted. One of the members of the Constituent Assembly rose to poetic heights, when he commended, "The Preamble is the most precious part of the constitution. It is the soul of the constitution. It is a key to the constitution." In *Kesavananda Bharati Vs , State of Kerala case(1973)*, majority of Supreme Court Judges referred Constituent Assembly debates and held that the Preamble was part of the constitution and contained its basic structure.

b) FUNDAMENTAL RIGHTS

An eternal problem that faced statesmen and political scientists was how to make a proper adjustment between individual freedom and social control. Under a democratic system this problem assumes extreme difficulty. The success or failure of democracy depends largely on the extent to which civil liberties are enjoyed by citizens. A democracy aims at the maximum development of individual's personality and this personality is inseparably bound with his liberty. Therefore, every democracy pays full attention to secure maximum freedom, without endangering the state itself. A common device adopted for this purpose is to incorporate a list of fundamental rights in their constitution and guarantees them from violation by executive and legislative authorities. The idea of incorporating a list of fundamental rights in a new constitution of India had excited the imagination of almost all political thinkers and constitutionalists in India, from the time, the idea of transfer of power had taken shape. None of the

Indian Acts passed by the British parliament contained any fundamental rights. All the members of the Constituent Assembly accepted the idea of incorporating a chapter on fundamental rights in the constitution of India. Part III of the constitution deals with fundamental rights. It is described as the most criticized part of the constitution, by Dr B.R..Ambedkar. It was discussed 11 days in the sub-committee, 2days in the Advisory committee and 25 days in the constituent assembly. As mentioned earlier, part III of the constitution covering from Articles 12 to 35 deals with fundamental rights. These rights are characterised by certain features which may be as follows:

1. Integral part of the constitution

Fundamental are an integral part of the constitution. They cannot be altered or taken away by the ordinary legislation. Any law passed by any legislature in the country could be declared null if it is derogatory to the rights guaranteed by the constitution.

2. Detailed and comprehensive:

The chapter in fundamental rights in the constitution is most comprehensive and elaborate. All Articles included in this chapter is within an elaborate set of limitations and reservations.

3. Positive and Negative rights:

Fundamental rights can be divided into two broad categories: namely, positive rights and negative rights. Positive rights which confer privileges on the people. Right to liberty, equality or freedom to express or worship. etc come under positive rights.

Negative rights are which impose certain restrictions on the state.

4. Fundamental rights are justifiable:

Another feature of fundamental rights is that they are justifiable. If any of these rights is violated, the affected individual is entitled to move either to Supreme Court or High court for the protection and enforcement of his rights.

5. Restrictive nature of fundamental rights:

Fundamental rights, guaranteed in Part III of the constitution, are not absolute rights. They are subjected to reasonable limitations provided in the constitution itself. Every right is permitted under certain limitations and reasonable restrictions. It can be imposed at anytime for the longer interest of the general community

6. Suspension of rights:

The President of India may suspend to all or any of the fundamental rights during the emergency operation. He may also suspend the right of the people to move the courts for the enforcement of fundamental rights.

7. Citizens alone enjoy fundamental rights:

Another feature of the fundamental rights is that some of the fundamental rights are available to Indian citizens alone E.g. Art 15, 16,18,29,30. Rights relating to protection of life, freedom of religion, and right against exploitation are guaranteed to every citizen with Indian or alien.

8. No natural or un enumerated rights:

F.Rs in the Indian constitution is not based on the theory of natural rights. Besides that, Indian constitution has left no scope for unenumerated rights.

9. Amendable:

In Kesavananda Bharati case the Supreme Court ruled that the fundamental rights can be amendable under article 368, but subject to the condition that its “basic structure” cannot be changed.

Classification of fundamental rights:

The constitution itself classifies the FRs under 7 groups:

1. Right to equality
2. Right to freedom
3. Right against exploitation
4. Right to freedom of religion
5. Cultural and Educational Rights
6. Right to property
7. Right to constitutional remedies

Out of these, “Right to property” has been deleted by 44th constitutional amendment (1978) and consequently it is not a fundamental right now. A separate Article 31-A has been added to the constitution to protect it as a constitutional right.

THE DIRECTIVE PRINCIPLES OF STATE POLICY

Part IV of the Constitution (Articles 36-51) provides the Directive Principles of state policy. These principles may include certain 'economic ideals' that states may, strive for; certain directions to the legislature and executive intended to show the manner in which the state should exercise their executive and legislative powers; and certain rights of the citizens which shall not be enforceable like the fundamental rights. It shall be the duty of administrators to follow these principles both in administration and legislation. They embody the object of the state under the republican.

The Directive principle of state policy was aptly described by Dr. Ambedkar as a 'novel feature of the constitution'. Sir Ivor Jennings claims that this part of the constitution expresses, 'Fabian socialism' without the word 'socialism'. These principles are directives to the various governments and governmental agencies to be followed as fundamental in the governance of the country. It shall be the duty of the state to apply these principles in making laws. Thus they place an ideal before the legislatures of India while they frame new legislation. They lay down a code of conduct for the administrators of India. In short, the Directive Principles enshrine the fundamentals for the realisation of which the state in India stands. They guide the path which will lead the people of India to achieve the noble ideas which the Preamble of the constitution proclaims: Justice, Liberty and Fraternity. DPSP are not legally enforceable by any court and the state cannot be compelled through the courts to implement them. nevertheless the constitution declares that they are "fundamental in the governance of the country and that it shall be the duty of the state to apply these principles in making laws."

Classification of Directive Principles

In order to understand the comprehensiveness of the DP, it is convenient to classify them into related groups. Dr. M.P. Sharma has suggested that they can be grouped into three categories, viz., socialistic, Gandhian and liberal intellectualistic.

The generally accepted classifications are:

1) Directive principles aiming at the establishment of a welfare state: A large number of DPs aim at the establishment of a welfare state in India.. E.g.

.Articles 38,

39, 41, 42, 43, 46, and 47.. These Articles cover a wide range of state activity embracing economic, social, legal educational and international problems. These Articles direct:

To organise village panchayats;

to secure the right to work, education and public assistance in cases of unemployment, old age, sickness etc.;

To secure just and humane conditions of work and maternity relief;

To secure uniform civil code;

To promote the educational and economic interests of the weaker sections of the people; and

To secure the improvement of public health and the prohibition of intoxicating drinks and drugs.

Taken together, these principles lay down the foundations on which a new democratic India will be built up.

2. Directions related with cultural and educational matters:

Another group of directive principles relates to the obligations of the state in educational and cultural matters. Article 45 declares that the state shall endeavour to provide within a period of ten years from the commencement of the constitution, for free and compulsory education for all the children until they complete age of fourteen years.

3. Directive principles aiming to implement Gandhian Principles:

There are a number of DRs aiming to implement Gandhian Principles. Some of the important principles are :

- 1) Article 40- the state shall organise village panchayats as units of self government;
- 2) Article 45- state shall promote with special care the educational and economic interests of the weaker sections of the people;
- 3) Article 43-State shall try to promote cottage industries;
- 4) Article 48-State shall preserve and improve the breeds and prohibit the slaughter of cows, calves and other milch and draught cattle;
- 5) Article 47-State shall try to improve public health and the prohibition of intoxicating drinks and drugs.

4. Directions related with International peace:

There are certain DPs related with international peace and security. Article 51 declares that the shall endeavour to (a) promote international peace and security; (b) maintain just and honourable relations between nations; and (c) the settlement of international disputes through arbitration.

5. Miscellaneous:

Some other important directive principles are (1) To separate judiciary from executive(Article 50);(2)to secure uniform civil code applicable to the entire country(Article 44); (3)to organise agriculture and animal husbandry on scientific lines, etc.

By the 42nd amendment, certain changes have been introduced in Part IV, adding new directives to accentuate the socialistic bias of the constitution. By 44th amendment, the Janatha government inserted section (2) in Article 38 and it reads now as, “The state shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”

Criticism of Directive Principles

The DPs were strongly criticized by several members of the Constituent Assembly. They have since been criticized on the following grounds:

- 1) Lack of legal sanction: Though DPs are fundamental in the governance of the country; they are expressly made non- justifiable. The courts of India have no power to enforce them. But fundamental rights are justifiable and therefore, enforceable by the courts of Law. The DPs have been described by K.C.Wheare as a “manifesto of aims and aspirations”.
- 2) Vague and illogically arranged: Ivor Jennings has expressed that fundamental rights as well as DPs are “based on no consistent philosophy” According to Sreenivasan, the formulation of the directives of the state policy can hardly be considered inspiring. It is both vague and repetitive. The Directives are neither properly classified nor logically arranged. The declaration mixes up relatively unimportant issues with the most vital, economic and social questions.
- 3 Moral precepts: According to the critics the DPs are little more than a set of moral precepts. These principles were no better than’ New Year resolutions which are broken on 2nd January.’ Professor K.T Shah described them as a cheque payable by the bank only when the resources of the bank permit. Just because of the DPs are not legally enforceable it would be rather cynical to say that, they are no more than “a parade of high sounding sentiments couched in vain glorious verbiage”. Nevertheless, their incorporation in the constitution has been justified by a consensus of opinion, as well as the working of the constitution since 1950.The real importance of DPs is that they contain the positive obligations of the state towards its citizens. If the fundamental rights guarantee a political democracy in India, the directive principles ensure the eventual emergence of an economic democracy, to sustain the former.

FUNDAMENTAL DUTIES

Rights and duties are the two sides of the same coin. They are the same things viewed from different angles. The condition of duty of one individual becomes the condition of right of others in society. In a democratic society, rights are now regarded by the citizens as their claims which they fight for.

But the enjoyment of rights involves fulfilment of certain obligations. Rights imply duties; rights and duties are correlative. The two go hand in hand. There is a common tendency on the part of the individual to be more aware of his rights than of his obligations towards his fellow citizens and the community. He needs the laws and the authority of the states to protect the privileges which his rights confer upon him. It follows from this that the individual owes some duties to the state. Laski has described the relation between rights and duties in its three aspects:

1. It is the imperative duty of a citizen to use his rights in such a way as contribute to social richness;
2. The enjoyment of his rights by an individual enjoins on him the duty to let others enjoy the same rights;
3. Since this state protects my rights, therefore, it is my duty to perform my obligations towards it.

Gandhiji attach far greater importance to duties than rights. Rights are the opportunity for self- realization. The way to self -realization is the realization of one's spiritual unity with others. Thus every right is the right to do one's duty. To quote Gandhiji "....the right to perform one's duties is the only right that worth living for and dying for. It covers all legitimate rights".

The constitutions of most western countries give a prominent place to the rights of the citizens but make no mention of his duties. E.g. USA On the contrary, the constitutions of socialist states give equal importance to the fundamental rights and duties of their citizens. The Constitution of India (1950) did not incorporate any chapter of fundamental duties. It was during the period of internal emergency declared in 1975 that need and necessity of fundamental duty was felt. A committee under Swaran Singh was appointed to make recommendations about fundamental duties. The committee emphasised the inclusion of a chapter on fundamental duties in the constitution. The committee proposed that "the parliament provide for the imposition of such penalty or punishment as may be considered appropriate for any non- compliance with or refusal to observe any of the duties". But these recommendations were not accepted by the congress party. As a result of the 42nd amendment (1976), the Indian Constitution has incorporated a set of fundamental duties in a separate part added to chapter IV (Article 51 A).

The fundamental duties are eleven in number. Under this article, it shall be the duty of every citizen of India.

I. To abide by the Constitution and respect the National Flag and the National Anthem;

II. To cherish and follow the noble ideas which inspired our national struggle for freedom;

III. To protect the sovereignty, unity and integrity of India;

IV. To defend the country;

V. To promote the spirit of common brotherhood amongst all the people of India;

VI To preserve the rich heritage of our composite culture;

VII. To protect and improve the natural environment;

VIII. To develop the scientific temper and spirit of inquiry;

IX. To safeguard public property;

X. To strive towards excellence in all spheres of individual and collective activity. By 86th Constitutional Amendment Act,2002 in Article 51A of the Constitution after Clause (j) the following clause has been added, namely:

XI. "(K) who is parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Fundamental duties are inserted in Article 51-A(Part IV),just after the

Directive Principles of state policy .Since this part was not added after Fundamental

Rights but after Directive Principles of state policy, it is clear that the intention of the 42nd amendment was to keep duties at par with the directive principles and not with fundamental rights. As regards the legal utility of these duties, D.D.Vasu is of the view that, “the legal utility of the fundamental duties is similar to that of the Directives as they stood in the Constitution of 1950, while the directives were addressed to the state without any sanction, so are the duties addressed to the citizens, without any legal sanction for their violation.” The only way to bring about adherence to fundamental duties is through public opinion and education in citizenship, values and duties and building adequate awareness wherein every citizen feels proud and bound to perform his constitutional duties to the nation and pay his debt to society.

MODULE III

(A). INDIAN FEDERALISM

“India, that is Bharat, shall be a Union of States,” declares **Art.1** of the Constitution of India. Thus, the Indian State is neither a federal state nor a unitary state. It has both federal as well as unitary features. Scholars have termed it as Unitarian federalism.

And the nature of Indian federalism is indeed unique. **K.C. Wheare** has described the Indian federalism as ‘**quasi federal**’ and observes that the “Indian Union is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features.” Here it is necessary to understand the federal and unitary features of the Constitution of India.

FEDERAL FEATURES OF THE INDIAN CONSTITUTION

1. **Written constitution:** An essential feature of a federal system is a written and rigid Constitution. The Indian Constitution is a written document containing 395 Articles and 12 schedules. It is the supreme law of the land and all authorities in India are legally bound to respect it.
2. **Rigid Constitution:** Another essential feature of a federation is a rigid Constitution which cannot be amended by the ordinary law making process of the land. The Indian Constitution is rigid to a large extent. Those provisions of the Constitution which concern the relation between the Union and State Governments and the judicial organization of the country can be amended only by the joint action of the Indian Parliament and the State Legislatures.
3. **Dual Governments:** While in a unitary state, there is only one government, namely, the national government, in a federal state, there are two governments: the national or the federal government and the government of component states. The Indian Constitution establishes a dual polity. There is a central Government and the twenty nine units described as states. Each State has its separate governmental system. The states have been created by the Constitution. They are not a creation of the Central Government.
4. **Distribution of powers:** A distinctive features of a federal state is a division of governmental powers between the national Government and the Constituent units

(States, provinces, republics, regions or cantons). Such division of powers is specified in the Constitution itself. The spheres of activities of both the Centre and States are clearly demarcated. There are three lists of governmental functions – the Union list, the Concurrent list, and the State list. The Indian Parliament has the exclusive power to make laws with respect to the subjects enumerated in the Union list. It also has the power to make laws in respect of all matters enumerated in the Concurrent list.

The States have the power to make laws in respect of subjects given in the State list.

5. Supremacy of the Constitution: The supremacy of the Constitution is another important feature of a federal system. In India, the Constitution is sovereign. It stands at the top of the hierarchy of laws – both national and state. The Central as well as the State governments have to operate within the limits prescribed by the Constitution.

6. Authority of Courts: The existence of more than one centre of authority in a federal state and the supremacy of the Constitution necessitate that there should be some authority, such as a Supreme Court to interpret Constitution, decide disputes between the Centre and the units India, there is a Supreme Court whose function is to act as the guardian of the Constitution. It interprets the Constitution, decides disputes between the Centre and States and among the States themselves. It has the power of judicial review and can declare unconstitutional any law of Parliament or of a State Legislature if it is deemed to be in conflict with the provisions of the Constitution.

7. Bicameral Legislature: Dual representation is another feature of a federal system.

The legislatures of federal states are bicameral. One chamber represents the federating units and the other the people. The Indian Constitution also provides for a bicameral legislature at the Centre. The Rajya Sabha which is the upper house represents the States and the Lok Sabha represents the people of India.

UNITARY FEATURES OF THE INDIAN CONSTITUTION

The Indian Constitution has many unitary features which have led the critics to challenge its federal character and characterized it as federal in form and unitary in spirit. The Governmental system created by the Constitution is highly centralized and the powers conferred on the units are extremely circumscribed. The important unitary features of the Constitution are as follows:

1. The Use of the word ‘Union’: Some scholars point out that nowhere in the

Constitution the term federation has been used. Article one simply described India as a union of states which, in effect, meant a very strong Central government.

2. Single Constitution for Union and States: The States, except Jammu and Kashmir, have no right to frame their Constitutions. There is only one Constitution which includes the Constitution of the States also. This is unlike other federal states where federating units have the power to determine their own Constitutions.

3. States Assigned Minor Role in Amendment of Constitution: In the matter of amendment of the Constitution, the part assigned to the States is minor, as compared with that of the union. In India, the states have no power to initiate an amendment to the Constitution. The initiative rests entirely with the Parliament.

There are many articles of the constitution which can be amended by Parliament without any reference to the States. This violates the principle of equality between the centre and the States.

4. Territorial Integrity of States not guaranteed: In our constitution, it is possible for

Parliament to organize the States by a simple majority in the ordinary process of legislation. Parliament by law may form a new state by separation of territory from any state or by uniting more two or more States or parts of States or by uniting any territory to a part of any State. However, a bill for the purpose has to

be referred by the President to the Legislature of the State whose area, boundary or name is affected by the Bill, for expressing its views thereupon. Parliament has the exclusive power to admit a state into the Union or establish new states; on terms and conditions as it thinks fit vide **Art.2** of the Constitution.

5. **Single Citizenship:** Usually in other federations there is provisions for double citizenship; each citizen is not only a citizen of the federal State as such but also of the particular federating State in which he resides. But there is no dual citizenship in India.

6. **No Right to Secession:** The States of the Union of India do not have the right to exercise any right of secession.

7. **No Equal Representation in Upper House:** *There is provision for equal representation to the federating units in the upper house of the Central Legislature.* But as per the Indian Constitution representation to the states in the upper house (the Rajya Sabha) is on the basis of their population.

8. **Overriding Legislative powers of the Union:** As pointed out above, there are three lists of subjects: the Union list, the State list and the Concurrent list. In respect of the subjects given in the concurrent list both Parliament and the State legislature has the power to legislate. But if both make law on the same subject and if they conflict with each other, the law made by the Parliament supersedes the State law. This makes legislative power of the Parliament formidable. The State does not enjoy full legislative freedom even in respect to the matters given in the State list.

9. **Administrative Control of the Union over the states:** In the administrative sphere also the Union government exercises control over the State governments even in normal times. Article 256 of the constitution states that the executive power of the state shall be so exercised as to ensure compliance with the laws made by the

Parliament. Further, the executive power of the Union extends to the giving of such directions to the State as may appear to the Government of India to be necessary for that purpose. Article 355 states that it shall be the duty of the Union to ensure that the government of every State is carried on in accordance with the provisions of the Constitution.

10. **Financial Control of the union over States:** In the financial matters also the autonomy of the States is seriously restricted. The division of taxing powers is also tilted in favour of the Union Government.

11. **State Governors act as Agents of the Centre:** The State Governor is appointed by the President. But as the president has to act on the advice of the Cabinet, the Governor is actually a nominee of the party in power at the Centre. The Governor actually acts as an agent of the Central government which through him can control the policy and measures of the State government.

12. **Emergency provisions:** The emergency provisions embodied in the Constitution pose a serious challenge to the federal character of the Indian polity. The president has the power to proclaim a state of emergency. Emergency is of three kinds: (1) actual aggression or threat of aggression, (**Art.352 National Emergency**) (2) breakdown of the Constitutional machinery of the state, (**Art.356 State Emergency**)

(3) Financial emergency, (**Art.360 Financial Emergency**)

13. **No Division of Services:** An extraordinary feature of the Indian Constitution which seriously imparts the federal character of our polity is that there is no clearcut division of services between the Centre and the States. The majority of public servants are employed by the states, but they administer both Union and State laws as are applicable to their respective states by which they are employed.

14. **Single Centralized Judiciary:** In India there is a single unified system of courts headed by the Supreme Court which administers both the union and the state laws as are applicable to cases coming up for adjudication. The judges of the State high

Courts are independent of the States who do not possess any power with regard to their appointment, removal or service conditions.

15. Centralized Machinery for Elections, Accounts and Audit: The machinery for elections, accounts and audit is also integrated. The Constitution provides for an Election Commission whose members are appointed by the President and the States have no say in their appointment, removal or service conditions. But the commission is responsible for the conduct, supervision, control and direction of elections not only to the Parliament but to the State Legislatures as well. Similarly, the Comptroller and Auditor general of India is appointed by the President and the States have no say in this appointment or removal. But he is responsible for the Audit of the Accounts of the Centre as well as the States.

CENTRE STATE RELATIONS

The essence of federalism is division of powers between the National Government and the State Governments. The most significant feature of any federation is the division of powers between the federation and constituent units. This is also the most important feature of the Indian federation. Part XI of the Constitution of India is titled 'Relation between The Union and the States'. It's Chapter I covering articles 245 to 255 deals with the Legislative Relations and distribution of legislative powers. The Administrative Relations are given in Chapter II covering articles 256 to 263. The matters related to Financial Relations are specified in Part XII of the Constitution.

LEGISLATIVE RELATIONS BETWEEN CENTRE AND STATES

In our Constitution, we have followed a system in which there are two lists of legislative powers, one for the Centre and the other for the states. The residue is left for the Centre. This system is similar to the system that is there in the Constitution of Canada. An additional list called the Concurrent List is also added in our Constitution on the pattern of the Constitution of Australia. It must be emphasized that the scheme regarding the distribution of powers and the actual division of powers is almost the same as it was in the Government of India act, 1935. The three lists are embodied in the Seventh Schedule of the Constitution.

The Union list: The Union List which consists of **ninety seven** items is the longest of the three. It includes items such as defence, armed forces, foreign affairs, citizenship, shipping and navigation, currency, inter-state trade and commerce, mineral and oil resources, Supreme Courts, High Courts, Income tax, customs duty etc. The Union

Parliament has exclusive powers of legislation with regard to the items mentioned in the list. The selection of these items is made on the basis of common interest to the

Union and with respect to which uniformity of legislation throughout the Union is essential.

The State List: The State list consists of **sixty six** items. Some of the more important of these items are as follows: public order, police administration of justice, prisons, local government, public health and sanitation, education, agriculture, animal husbandry, State public services, taxes on agricultural income, taxes on lands and buildings etc. The selection of these items is made on the basis of local interest and it envisages the possibility of diversity of treatment with respect to different items in the different States of the Union. The State legislature has the power of legislation with regard to every one of the items included in the State List.

The Concurrent List: The Concurrent list consists of **forty-seven** items. These are items with respect to which uniformity of legislation throughout the Union is desirable but not essential. As such, they are placed under the jurisdiction of both the Union and the States. The list includes items such as marriage and

divorce, transfer of property other than agricultural land, contracts, bankruptcy and insolvency, adulteration of foodstuffs, drugs and poisons economic and social planning etc.

The Parliament of India and the States legislature have concurrent powers of legislation over the items included in the list. Once Parliament enacts a law on an item in the list, parliamentary Law shall prevail over any state law on the item. Law shall prevail over any state law on the item.

In the federation of the United States, Switzerland and Australia the **residuary**

Powers are assigned to the federating units. While in India, like Canadian federation, the residuary powers are vested in the Union as per **Art.248**.

PARLIAMENT CAN LEGISLATE ON THE SUBJECTS OF STATE LISTS

Although the States have the exclusive power of legislation over every item in the State List, there are certain exceptions to this general rule. These exceptions are:

1. **Article 249** specifies the 'power of Parliament to legislate with respect to a matter in the State List in the national interest.' It provides that if the Rajya Sabha declared by a resolution supported by not less than two-thirds of the members present and voting that it was necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it became lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter during the period the resolution remained in force. Such a resolution remained in force for such a period, not exceeding one year, as might be specified therein. The Rajya Sabha, however, could extend the period of such a resolution for a further period of one year from the date on which it would otherwise have ceased to operate.
2. Under **Article 250**, Parliament is empowered to make laws on any item included in the State List for the whole or any part of India while a proclamation of Emergency is in operation. The maximum period for which such a law can be in force is the period for which emergency lasts and six months beyond that period.
3. Under **Article 252**, Parliament also became entitled to legislate for two or more states by their consent. If two or more States request the Central government to legislate on a particular subject mentioned in the State List, in so far as their State is concerned, the Central Parliament shall legislate on these subjects as well. If any such law is to be amended or repealed, it can be done only by the Parliament alone but the initiative for it rests with the States.
4. Under **Article 253**, Parliament had power to make any law for the whole or any part of India for implementing any treaty, agreement or convention with any other country or country or any decision made at any international conference, association or other body. This provision entitled Parliament to legislate even in respect of those subjects that were included in the State List.
5. The predominance of Parliament was further established by **Articles 356 and 357** of the Constitution. Article 356 stipulated that if the President was satisfied that a situation had arisen in which the Government of a State could not be carried on in accordance with the provisions of the Constitution he might declare that the powers of the Legislature of the State would be exercisable by or under the authority of Parliament. The effect of Article 356 would be that the legislature of the State in question would stand dissolved or suspended and the law-making power would rest in Parliament during the period the proclamation of emergency was in force.
6. Not only Parliament enjoyed predominance over law-making in the States, the Union executive also exercised some control. Certain Bills adopted by the State Legislature would not be effective unless it had been reserved for the consideration of the President and had received his assent.
7. There is also Union control over the ordinance making power of the Governor. The Governor of a State can issue Ordinances vide Art.213 of the Constitution when the State legislature is not in session. Under certain circumstances, the Governor can issue the ordinance with the prior approval of the President, without getting the approval of the State Council of Ministers.

Thus, it is clear that in spite of division of legislative powers of the Centre and the States, the Centre has overriding powers in this sphere. The Union Parliament has powers to legislate not only on subjects in the Union and Concurrent List, but also on the subjects in the State List as per certain constitutional provisions.

ADMINISTRATIVE RELATIONS BETWEEN CENTRE AND STATES

The executive power of the Union extends only to those matters which are mentioned in the Union List and over which the Parliament have legislative powers. In addition, the union can exercise administrative control over the states through the following methods.

1. **Articles 256** of the Constitution specifies the respective obligations of the Union and the State Governments and lays down, “The executive power of every state shall be so exercised as to ensure compliance with the laws made by the Parliament and any existing laws which apply in that State and the executive power of the union shall extend to the giving of such direction to the State as may appear to the Government of India to be necessary for that purpose.” Thus, this article clearly provides that the executive authority of the State shall be so exercised that the laws made by the Parliament and the existing laws of the States are properly enforced.

2. **Article 257(1)** lays down, “the executive powers of every state shall be so exercised as not to impede or prejudice the exercise of the executive powers of the union, and the executive power of the union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.” Thus, within the sphere covered by the State list, the Union government can give directions to the State Governments.

3. By **Article 257(4)** The Union Government can also give directions to the States regarding the construction and maintenance of means of communications declared to be of national or military importance. The Union Government can also give directions to the States regarding the measures to be taken for protecting the railways within the boundaries of the State. However, the excess expenses incurred by the State Governments are paid by the Government of the Union.

4. In case, the State Government fails to carry out any of the directions of the Union Government, the president has been empowered by **Article 365** of the constitution to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the constitution. In other words, if the state fails to carry out the orders or directions of the union, the President’s rule may be imposed on that state. In such eventuality the president shall assume to himself, all or any of the functions of the State Government.

5. Delegation of Union Functions to the States is also provided in the Constitution.

The President with the consent of the State Government can entrust to the officers of the State Government any function in respect to any subject over which the executive power of the Union extends. Thus, the States may be converted into agents of the union Government. However, any extra cost incurred by the States for carrying out such an obligation is to be paid by the Union.

6. The presence of **All-India Services** like the Indian Administrative Service, the Indian Police Service etc. further makes the authority of the Central Government dominant over the States. The members of these All-India Services are appointed by the President of India on the basis of a competitive examination conducted by the Union Public Service Commission. The Constitution also makes provisions for the creation of new All-India Services by the Parliament. The Parliament can create new

All-India Service if the Rajya Sabha passes a resolution by a majority of two-thirds of its members present and voting, that it is necessary in the national interest to do so.

7. The Constitution vests the President with the power to establish an **Inter-State**

Council, to bring about co-ordination between states. **Article 263** which deals with the inter-State council says: “If at any time it appears to the President that the public interests would be served by the establishment of a council charged with the duty of

(a) Inquiring into and advising upon disputes which have arisen between the states

(b) Investigating and discussing subjects in which some or all of the States, or the union and one or more of States, have common interest; or

(c) Making recommendations upon any such subject and in particular, recommendations, for the better co-ordination of policy and action with respect to that subject, it shall be lawful for the President by order to establish such a council, to define the nature of duties to be performed by it and its organization and procedure.

8. The Constitution further ordains that **full faith and credit** must be given throughout the territory of India to public acts, records and judicial proceedings of the union and of every state. The Parliament is authorized to make necessary laws in this regard. Further, all the final judgments or orders delivered or passed by the civil courts in any part of India are executable anywhere within India in accordance with law.

9. The Constitution has authorized the parliament to make laws for the adjudication of the disputes relating to Inter-State Rivers or river valleys. The Parliament is also authorized to exclude such disputes from the jurisdiction of the courts, including the Supreme Court, through the enactment of necessary law.

10. During the time when **Emergency** is proclaimed the President is authorized to give directions to the State Governments regarding the manner in which they have to exercise their executive power. Even the Parliament gets power to make laws for the whole of the country or a part thereof even in respect of matters mentioned in the

State List. Thus, the federal structure provided under the Constitution is virtually transformed into a unitary one.

11. The Parliament, **vide Art.307** of the Constitution, can also set up **Inter-State**

Commerce Commission or any other such authority which it considers appropriate for enforcing the provisions of the Constitution with regard to Inter-State trade and commerce. It can assign such duties to such a commission or authority, as it deems fit.

FINANCIAL RELATIONS BETWEEN CENTRE AND STATES

The Constitution of India makes an elaborate and detailed provisions as the with respect to the relationship between the Union and the States in the financial field. The Indian Constitution lays down a broad scheme for the distribution of revenue resources between the Union and the States and it is the function of the Finance Commission to allocate the resources between the Centre and States and to the distribute the grants-in-aid.

Union Sources of Revenue

- Duties of Customs including export duties.
- Corporation tax
- Currency, coinage and legal tender, foreign exchange
- Duties of excise on tobacco
- Foreign Loans
- Estate duty in respect of property other than agricultural land.
- Post-office savings bank.
- Railways.

- Reserve Bank of India.
- Taxes on income other than agricultural income.
- Taxes on the sale or purchase of newspapers
- Terminal taxes on goods or passengers carried by railways, sea or air
- Taxes other than stamp duties on transactions in stock exchanges

State Sources of Revenue

- Duties in respect of succession to agricultural land.
- Duties of excise on certain goods produced in the States like alcoholic liquids
- Estate duty in respect to agricultural land.
- Land Revenue.
- Taxes on agricultural income.
- Taxes on buildings and land.
- Taxes on consumption of electricity or its sale.
- Taxes on the entry of goods
- Taxes on vehicles.
- Taxes on animals and boats
- Taxes on professions, trades and employments.
- Tolls
- Taxes on luxuries including taxes on entertainments.

The distribution of revenues between the centre and states are as follows.

Taxes levied by the Union but collected and appropriated by the States (Art.268)

Stamp duties and duties of excise on medicinal and toilet preparations (those mentioned in the union list) shall be levied by the Government of India but shall be collected

(i) in the case where such duties are leviable within any Union Territory, by the Government of India, and (ii) in other cases, by the States within which such duties are respectively leviable. Taxes Levied and Collected by the Union but assigned to the States (Art.269)

1. Duties in respect of succession to property other than agricultural land.
2. Estate duty in respect of property other than agricultural land.
3. Taxes on railway fares and freights.
4. Taxes other than stamp duties on transactions and on advertisements published therein.
5. Terminal taxes on goods or passengers carried by railways, sea or air.
6. Taxes on the sale or purchase of newspapers and on advertisements published therein.
7. Taxes on the sale or purchase of goods other than newspapers where such sale or purchase takes place in the course of inter-state trade or Commerce.

Taxes which are levied and collected by the Union but which may be distributed between the Union and States (Art.270)

(vi) Taxes on income other than agricultural income.

Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List and collected by the Government of India. Taxes on income do not include Corporation Tax. The distribution of income-tax proceeds between the Union and the States is made on the basis of the recommendations of the finance Commission.

The Constitution of India has followed the following pattern regarding the distribution of financial resources between the Union and State Governments.

1. Taxes exclusively assigned to the Union which include – customs and export duties, income tax, excise duties on tobacco, jute etc., Corporation tax on capital value of assets of individuals and companies; estate duty and succession duty in respect of property other than agricultural land and income from the earning departments like the railways and postal departments.
2. Taxes exclusively assigned to the States which are – land revenue; stamp duty (except on documents included in the Union List) ; succession duty and estate duty; taxes on goods and passengers carried by road or inland waters; consumption or sale of electricity; tolls; taxes on employment; duties on alcoholic liquors for human consumption, opium ; taxes on the entry of goods into local areas; taxes on luxuries entertainments, amusements, betting, gambling etc.
3. Taxes leviable by Union but collected and appropriated by States: The revenue from the following items is collected and appropriated by the States:
 - (i) Stamp duties on bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares etc.Excise duties on medicinal, toilet preparations containing alcohol or opium or Indian hemp or other narcotic Government can levy taxes on them, yet all these duties are collected by the states and from the part of the revenue of the state which collects them.
4. Taxes levied and collected by Union but assigned to the States: The taxes on the following items are levied and collected by the Union, but wholly assigned to the states within which they are levied:

- (a) Duties in respect of succession to property other than agricultural lands;
- (b) Estate duty in respect of property other than agricultural land;
- (c) Terminal taxes on goods or passengers carried by rail, sea or air.
- (d) Taxes on railways freights and fares;
- (e) Taxes other than stamp duties on transactions in stock exchanges and future markets;
- (f) taxes on the sale or purchase of newspapers and on advertisements published therein.

5. Taxes levied and collected by Union and shared with States: The taxes from the following items are levied and collected by the Union but shared with the States in certain proportions, with a view to securing an equitable distribution of the financial resources:

- (i) taxes on income other than agricultural land;
- (ii) excise duties, other than those on medicinal and toilet preparations.

6. Grants-in-aid: The Constitution provides that the Parliament may by law give grants-in-aids to the needy states out of the revenue of the Central government. The amount of such grants is determined by the Parliament in accordance with the needs of the state. The Constitution however, lays down that the cost of all the schemes aiming at the welfare of the Scheduled tribes is to be met by the Union Government and the Union Government makes the necessary grants to the state concerned on this account.

The constitution also makes special provisions for grant to the State of Assam to enable it to meet the extra cost involved in raising the administrative level of the tribal areas. Moreover, the states of Assam, Bihar, Orissa and West Bengal are paid such sums, as prescribed by the President of India, in lieu of their share in the export duty on jute products.

7. Finance Commission: The President of India is authorized by the Constitution to appoint a Finance Commission every five years vide Art.280. This commission is expected to make recommendations regarding the allocation of revenues to the Union Government and the State Governments, grants-in-aid by the Union Government to the State and other financial matters. However, the Constitution does not clearly provide, whether the President is bound to accept the advice and recommendations of the Finance Commission. The convention, so far, has been that the union Government accepts all the recommendations of the Finance Commission.

In fact, under the Constitution, the President is expected to place every recommendation of the Finance Commission, together with an explanatory memorandum as to the action taken by thereon, before each house of the Parliament.

8. Financial Emergency: During the proclamation of Financial Emergency, the President can suspend the provisions relating to the division of taxes between the Union and the States and the grants-in-aids to the States. When such a proclamation is made, the States are left with the revenues available in the States List. However, during such a proclamation the Union Government has the power to give directions to the States to:

- (a) Observe such canons of financial propriety and other safeguards as may be specifies;
- (b) Reduce the salaries and allowances of all persons serving in connection with the affairs of the State; including the high court Judges;
- (c) Reserve for the consideration of the President all money bills passed by the State Legislature.

9. Control by the Comptroller and Auditor General of India: The Comptroller and Auditor General, who is responsible for the maintenance and audit of the union and States accounts, is an official of the Central Government. He is appointed by the President. His powers and duties are determined by the Parliament. The forms for the maintenance of accounts are prescribed by the Comptroller and Auditor General of India in consultation with the President of India, and the States have no say in this matter.

It is evident from the above discussion that the states do not possess adequate financial resources to meet their requirements. Their sources are not only very limited but are also very inelastic. The Union Government on the other hand possesses very wide and ever expanding sources of revenue. This naturally places the Union Government in a favorable position and the states have to frequently look up to the Centre for financial assistance.

MAIN ISSUES OR TENSION AREAS IN UNION- STATE RELATIONS

The Constitution of India envisages two levels of government- one at the level of Union and other at the level of the states. From the functional stand point of the

Constitution, it is a dynamic process. However, the very dynamism of the system with all its checks and balances has also brought problems and conflicts in the working of the Union-State relations. Consensus and cooperation which is a prerequisite for smooth functioning of Union-State relations is threatened by politics of confrontation. The main issues in Centre-State relations are as follows –

1. Less revenue resources of the states and financial relations between the Union and the state.

The division of financial resources and the system of financial relations as laid down by the constitution have been major tension areas. The states find themselves dependent upon the Union because of their meagre and limited resources and restricted field of taxation. States are dependent on the Centre for allocation of funds and grants-in-aid. The states ruled by the parties other than the party at the Centre often complaint of discriminatory treatment in the matters of allocation of funds and giving of grants-in –aid.

2. Role of Governor.

The Governor plays a dual role –as the agent of Centre in the state and as the Constitutional head of the state. As a central agent he has to ensure that state governments run in accordance with the constitutional provisions, otherwise he can report to the centre about breakdown of constitutional machinery and get the

President impose State emergency vide Art 356. The provision for the appointment and removal of the Governor by the President, who always acts upon the advice of the Union cabinet, makes him an agent of the party in power at the Centre. The exercise of the Governor’s discretionary powers has also been an issue in Centre state relations such as dissolution of State Legislative Assemblies.

3. Centre-State tensions over the use of Article 356.

This article empowers the President to take a decision based on the report of the Governor of the State regarding the ‘breakdown of Constitutional machinery in the state’. The President is guided by the advice of the Union Government. This article has been at times misused for political purposes by the Centre.

4. Concentration of Amending Powers in the hands of the Union.

As per the Indian Constitution constitutional amendments can be imitated only by the Union Parliament and not by the State Legislatures. Further, only certain amendments need approval of at least half of the state legislative assemblies. This is another area of tension.

5. Deployment of Central Para-military forces in the States.

Another area of conflict between the Union and the states in India has been the issue of deployment of Central Para-military forces by the Union in the States in times of crisis like communal riots, strikes or other law and order disturbances.

6. Issue of Implementation of Union Laws by the States.

The Constitution vests in the States the responsibility of implementing the Union laws. For this purpose, the Union can issue directives to the States. Each state has the Constitutional responsibility to exercise its powers in such a way as may be helpful in securing of compliance with Union Laws. At times the State Governments are not quite willing to effectively implement a particular Union law which is considered to adversely affect its politics and programmes.

7. Issue of discrimination against States.

The States feel dissatisfied with the system of Central grants-in-aid and allocation of funds by two Central agencies – the Planning Commission and the Finance Commission. The Union Government is often charged of partiality in favour of some states and discrimination against other states which are ruled by opposition parties and regional parties.

8. Issue of All India Services.

The personnel of All India Services like the IAS and IPS hold key positions in the State administration. They are recruited by the UPSC and the Union Home Ministry allocates them to various states. Their conduct is regulated by central laws and the state governments can take only limited action against them. The Union Government can issue direction to them for carrying out its decision. Such directions can be sometimes opposed to the policies and programmes of the state governments of which they are the administrators. Thus, the use of All India Services by the Union Government for carrying out its directions in States is a tension area in Indian federalism.

9. Inter State disputes and the Union.

The failure or delay in activity on the part of the Union Government to secure a settlement of several inter-state disputes has also been a cause of tension in the Union State relation.

10. Demand for State Autonomy.

The States have been demanding greater state autonomy in the federal structure which has worked with a Unitarian spirit. The states find the balance of power tilted in favour of Union in the federal scheme drawn by the Constitution.

Therefore, the need for autonomy and transfer of some additional powers and resources to the States has been emphasized upon.

Sarkaria Commission

The Sarkaria Commission was set up in June 1983 by the Central government of India during the regime of Smt. Indira Gandhi. The Sarkaria Commission's charter was to examine the relationship and balance of power between state and central governments in the country and suggest changes within the framework of Constitution of India. The Commission was so named as it was headed by Justice Rajinder Singh Sarkaria, a retired judge of the Supreme Court of India. The other two members of the committee were Shri B.Shivaraman and Dr.S.R.Sen.

The Commission submitted its final 1600-page report in October 1987 and was published in 1988. The final report contained 247 specific recommendations. In spite of the large size of its reports - the Commission recommended, by and large, status quo in the Centre-State relations, especially in the areas, relating to legislative matters, and role of Governors and use of Article 356.

It is widely accepted that to whatever extent the Commissions suggested change; the recommendations were not implemented by the government

The Commission after conducting several studies, eliciting information, holding discussions and after detailed deliberations submitted its report in January 1988. The report contains 247 recommendations spreading over 19 Chapters dealing with

Legislative Relations, Administrative Relations, Role of the Governor, Reservation of

Bills by Governors for President's consideration and Promulgation of Ordinances,

Emergency Provisions, Deployment of Union Armed Forces in States for Public Order Duties, All India Services, Inter-Governmental Council Financial Relations, Economic and Social Planning, Industries, Mines and Minerals Chapter, Agriculture , Forests, Food and Civil Supplies, Inter-State River Water Disputes, Trade, Commerce and Inter-course within the Territory of India and Mass Media

RECOMMENDATIONS OF THE SARKARIA COMMISSION

1. Residuary powers of legislation in regard to taxation should continue to remain exclusively in the Concurrent List, while the residuary field other than that of taxation, should be placed in the Concurrent List.
2. It favoured the retention of strong Centre and firmly rejected the demand for the curtailment of the powers of the Centre in the interest of national unity and integrity.
3. The commission rejected the demand for the transfer of certain state subjects to the Concurrent List and held that the Centre should consult the states on Concurrent subjects.
4. The commission did not favour restrictions on the powers of the Centre to deploy armed forces in the states, even though it favoured consultations with the concerned state governments before these forces were actually deployed in the states.
5. It favoured greater co-operation between the Centre and the States in the matter of formulation of plans and their implementation. It recommended the Constitution of the Inter-State Council.

6. The report rejected the demand for the abolition of the office of the Governor and the suggestion regarding selection of Governors out of a panel of names given by the States. When a State and the Centre were ruled by different parties, the Governor should not belong to the ruling party.
- 7) The report did not agree with the demand for major changes in the scheme of distribution of financial resources as provided by the Constitution.
- 8) The report turned down the demand for doing away with Article 356 of the Constitution under which President Rule could be imposed on a State on the grounds of breakdown of constitutional machinery. However, it suggested several measures for preventing its misuse by the Centre and emphasized that it should be used very sparingly and only in extreme cases.
- 9) The report rejected the demand for disbanding of All India Services on the ground that it would greatly undermine the unity and integrity of the country.
- 10) The report suggested that the leader of the majority party in the legislature should be appointed as the Chief Minister. If no single party enjoyed a clear-cut majority in the State Legislature, the person who was likely to command a majority in the assembly be appointed Chief Minister by the Governor. The Chief Minister should seek a majority vote in the assembly within thirty days.
- 11) The commission recommends that in dealing with the state bill presented to the Governor under Article 200, he should not act contrary to the advice of his Council of Ministers because personally he does not like the policy embodied in the bill. Bill should be reserved only in exceptional circumstances.
- 12) The report favoured the implementation of the three language formula throughout the country and stressed special steps for activating the Linguistic Minorities Commission. It also favoured relaxation of Central control over the radio and television and wanted greater decentralization of authority in matters of their day-to-day operation.

PLANNING COMMISSION

Composition

The Planning Commission of India was set up in March 1950 with Pandit Jawaharlal Nehru as its Chairman. It is an extra-constitutional and non-statutory body set up by a resolution of the cabinet, to formulate integrated Five year Plans for economic and social development and to act as an advisory body to the Union Government. It was set up in pursuance of declared objectives of the Government to promote a rapid rise in the standard of living of the people by efficient exploitation of the resources of the country, increasing production and offering opportunities to all for employment in the service of the community. The Commission is composed of twelve members. Prime Minister (Chairman); eight other members (including the deputy chairman), who are experts in different fields like economics, industry, science, agriculture and general administration; Minister of Planning; Minister of Finance and Minister of Defence. As a composite body it provides advice and guidance to the subject divisions for the formulation of Five Year Plans, Annual Plans, State Plans, Monitoring Plan Programmes, Projects and Schemes.

Functions

The main functions of the Planning Commission include:

- Making an assessment of the material, capital and human resources of the country.
- Formulation of plan for the most effective and balanced utilization of the country's resources.
- Defining stages of plan implementation and determining plan priorities
- Identifying the factors which are tending to retard economic growth and determining condition for its successful implementation
- Making periodic assessment of the progress of achievements and recommending changes in policy measures.

Evolving Functions

In the context of the changed economic scenario, the role of the Planning

Commission has been redefined. From a highly centralized planning system, the Indian economy is gradually moving towards indicative planning where the Planning Commission will concern itself with the building of a long term strategic vision of the future and decide on priorities of the nation. It will work out sectoral targets and provide promotional stimulus to the economy to grow in the desired direction. The Planning Commission will play an integrative role in the development of a holistic approach to the policy formulation in critical areas of human and economic development.

NITI Aayog (**Hindi**: आयोग, lit. "Policy Commission") or **National Institution for**

Transforming India Aayog is a policy think-tank of **Government of India** that replaces **Planning Commission** and aims to involve the states in economic policy-making in **India**. It will be providing strategic and technical advice to the central and the state governments. The **Prime Minister** heads the Aayog as its chairperson.

There are a couple of things to be considered here. NITI Aayog would therefore mean:

- A group of people with authority entrusted by the government to formulate/regulate policies concerning transforming India.
- It is a commission to help government in social and economic issues.
- Also it's an Institute of think tank with experts in it

THE NATIONAL DEVELOPMENT COUNCIL

Composition

The establishment of the Planning Commission led to the setting up of another extra constitutional body, namely the National Development Council. It was set up on 6th

August, 1952 in order to promote co-ordination with the states and to associate the states in the formulation of the Plans. Its main aim is to strengthen and mobilize the effort and resources of the nation in support of the Plan, to promote common economic policies in all vital spheres and to ensure the balanced and rapid development of all parts of the country.

In the NDC representatives of both the Central and State Government sit together to finally approve all important decisions relating to planning. The NDC is composed of the following members – Prime Minister; All state Chief Ministers; Administrators of Union Territories; Members of Planning Commission; other Ministers are also invited to participate in its discussions.

Functions

The NDC is working as an advisory council and has the following functions –

To make periodical review of the working of National Plan from time to time.

To consider important questions related to social and economic policy affecting national development.

To recommend various measures for achieving aims and targets set out in our National Plan.

To ensure maximum cooperation of people in the planning and improvement of administrative capacity.

To suggest programmes and schemes for the development of less developed and backward classes and regions.

To assess resources required for implementing plans and to suggest ways and means for raising national resources.

To take decision regarding allocation of Central assistance for planning among different states.

To prescribe guidelines for the formulation of national plans.


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To consider national plans as formulated by the Planning Commission and to approve the same.

ROLE OF THE NATIONAL DEVELOPMENT COUNCIL

The National Development Council has a special role in our federal polity. It is the apex body for decision making and deliberations on development matters. The NDC enjoys an important position because it is chaired by the Prime Minister with the Chief Ministers of all the States participate in its meetings. The states get an opportunity to advance their viewpoints with respect to their specific problems and targets. This also ensures the consent of states to the proposed plan after detailed discussions and debates. It symbolizes the federal approach to planning. It is also an instrument for ensuring that the planning system adopts a national perspective. The consent of states ensures the smooth implementation of plans. The participation of states in the formulation of plans also ensures that the targets of both the Central and State governments are fulfilled. In legal terms, the NDC is an advisory body but in reality, the NDC approves the five year plans and prescribes guidelines for the formulation of plans.

FINANCE COMMISSION

Composition

Article 280 of the Indian Constitution provides that the President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier times as the President considers necessary, by order constitute a Finance Commission. It consists of a Chairman and four other members to be appointed by the President. The Chairman must be a person having experience in public affairs. The other four members are appointed as per the following criteria –

- (a) A person should either be a High court judge or qualified to be appointed as a judge of High Court.
- (b) One person having special knowledge of the finances and accounts of the Government.
- (c) A person having wide experience in financial matters and administration.
- (d) A person having special knowledge of economics.

Functions

The function of the Commission is to make recommendations to the President regarding-

- (i). the distribution between the Union and the States of the net proceeds of taxes which are to be divided between them and the allocation between the States of the respective shares of such proceeds.
- (ii). the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India.
- (iii). the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State (inserted by the 73rd Constitutional Amendment Act, 1992).
- (iv). 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 recommendations made by the Finance Commission of the State (inserted by the 74th Constitutional Amendment Act, 1992).
- (v). any other matter referred to the Commission by the President in the interests of sound finance.

Article 281 of the Constitution provides that the President shall cause every recommendation made by the Finance Commission to be laid before each House of Parliament.

The first Finance Commission was constituted in 1951 under the Chairmanship of Sri. K.C.Neogy. so far Thirteen Finance Commissions have been constituted to make recommendations on the distribution of net proceeds of sharable taxes between union and states. The Chairman of the Twelfth Commission was headed by the veteran Indian economist Sri.C. Rangarajan. The Thirteenth Finance Commission was chaired by Sri.Vijay Kelkar.

The fourteenth finance commission chair man is Dr. Y.V Reddy Commission. It consists of a Chairman and four other members to be appointed by the President. The Chairman must be a person having experience in public affairs.

The other four members are appointed as per the following criteria –

1. A person should either be a High court judge or qualified to be appointed as a judge of High Court.
2. One person having special knowledge of the finances and accounts of the Government.

MODULE IV

Parliamentary System in India

Parliamentary System in India

The democratic system of government can be divided into the parliamentary and the presidential system based on the relationship between the executive and the legislature. In a parliamentary system, executive is a part of legislature, which implements the law and plays an active role in framing it as well.

In a parliamentary system, the head of the state may be a monarch or a president, but both of these positions are ceremonial. The head of the government, who is generally called as the Prime Minister, is the real head. Thus, all the real executive powers are vested in the Prime Minister.

The parliamentary government is also called as the Cabinet government due to concentration of executive powers in the cabinet. Articles 74 and 75 deals with the parliamentary system at the centre and Article 163 and article 164 deals with the Parliamentary system at the states.

Elements and Features of Parliamentary System

Mentioned below are the elements and features of the parliamentary system:

1. **Nominal and Real Head:** The head of the state holds a ceremonial position and is the nominal executive. For example, the President.

In India, the head of government is the Prime Minister who is the real executive. Article 75 of the Indian constitution provides for a Prime Minister to be appointed by the president. According to Article 74, the Prime Minister headed council of ministers would aid and advise the President in the exercise of his functions.

1. **Executive is a Part of Legislature:** The Executive forms a part of the legislature. In India, the person should be a member of parliament to become a member of the executive. However, the constitution provides that a person can be appointed as a minister for a period of not more than six consecutive months if he is not a member of the parliament, after which the person ceases to be a minister.

2. **Majority Party Rule:** The party which wins majority seats in the elections of the Lower House forms the government. In India, the President invites the leader of the majority party in Lok Sabha to form the government. The President appoints the leader as the Prime Minister and the other ministers are appointed by the President on the advice of the Prime Minister. The President may invite a coalition of parties to form the government, in case, no party has got majority.

3. **Collective Responsibility:** The council of ministers are collectively responsible to the parliament. The lower house of parliament has an ability to dismiss a government by getting the no confidence motion passed in the house. In India, the government survives till the time it enjoys support of the majority of members in the Lok Sabha. Thus, Lok Sabha is empowered to introduce no-confidence motion against the government.

4. **Prime Minister as the Centre of Power:** In India, the Prime Minister is the real executive. He is the head of the government, the council of ministers and the ruling government. Thus, he has to play a significant and important role in the working of the government.

5. **A Parliamentary Opposition:** No government in the parliament can get hundred percent majority. The opposition plays an important role in checking the arbitrary use of authority by the political executive.
6. **Independent Civil Service:** The civil servants advice and implement decisions of the government. Civil servants hold permanent appointments based on merit-based selection process. They ensure continuity of employment even when the government changes. The civil service also ensures efficiency in execution of duties and responsibilities.
7. **Bicameral Legislature:** Most of the countries following parliamentary system, including India, have bicameral legislature. The members of the Lower House of all these countries are elected by the people. The Lower House can be dissolved, in case, the term of the government is over or there is no scope of government formation due to lack of majority in house. In India, the President can dissolve the Lok Sabha on recommendation of the Prime Minister.
8. **Secrecy:** The members of the executive in this system have to follow the principle of secrecy in matters such as proceedings, executive meetings, policymaking etc. In India, the ministers take oath of secrecy before entering their office.

Advantages of Parliamentary System

The parliamentary system has the following advantages over the presidential system:

1. **Represents Diverse Group:** The parliamentary form of government provides opportunity to various ethnically, racially, linguistically and ideologically diverse groups to share their views in framing of laws and policymaking. Countries, such as India, which have high level of diversity enables accommodation by providing political space to various diverse sections of the society.
2. **Better Co-Ordination Between Legislature and Executive:** The executive is a part of the legislature. As the government enjoys the support of majority of members in the lower house, the tendency of disputes and conflicts decreases. It makes easy for the government to pass the legislation in the parliament and implement them.
3. **Prevents Authoritarianism:** In a parliamentary system, the tendency of authoritarianism decreases as the power is vested in the council of minister rather than a single individual. The parliament can remove the government through no-confidence motion.

4. **Responsible Government:** The parliament can check the activities of the executive as the latter is responsible to the former. In a presidential system, the president is not responsible to the legislature. The members of the parliament can ask question, move resolutions, and discuss matters of public importance to pressurize the government. Such provisions are not available in Presidential system.

5. **Availability of Alternate Government:** The lower house of the parliament can introduce and pass a no-confidence motion. In such a situation, the head of the state invites the leader of the opposition party to form the government. In the United Kingdom, the opposition forms a shadow cabinet for the cabinet of the government, so that they can become ready for the role.

President of India

President of India is the head of the Union Executive. A Council of Ministers headed by Prime Minister aids and advises the President in the exercise of his function.

President of India is also Supreme Commander of the Defence Forces. There are some fixed **Duties & powers of the President of India** which he has to execute for the welfare of the country. These duties & powers are conferred upon the President to preserve, protect and defend the Indian Constitution.

The Indian President has to appoint the Prime Minister of India. The President also appoints the Council of Ministers and with the Prime Minister's advice he/she distributes the portfolios to the Council of Ministers. The President is also accountable to make a wide range of appointments.

The President of India has Executive, Judicial and Legislative powers. Some of the Executive powers of the Indian President are:

- The Indian President can award a person or decrease the verdict of an offended person, chiefly in cases concerning punishment of death.
- The president can assign governors of States, Attorney General, Chief Justice, Chief Election Commissioner, Ambassadors and High Commissioners to other countries
- The President is also the chief of the Indian Armed Forces

The India President is capable with legislative powers such as:

- He/ She commands both the Houses of the Parliament and also can postpone the same
- A bill passed by the parliament becomes a law only when it is passed by the President
- The President can dissolve the Lok Sabha
- If it becomes necessary to have a law then the President can promote ordinances when the parliament is not in session.

President's Emergency Powers

The Indian Constitution has vested extensive powers to the Union Government or the President to deal with abnormal conditions in times of emergency.

The Constitution of India in Part XVIII provides three different types of emergency (National, State and Financial) and in each case the President is empowered to declare the emergency.

The emergency provisions of our Constitution (Articles 352-360) are enumerated as follows:

1. Proclamation of National Emergency (due to war or armed rebellion or external aggression).
2. Proclamation of State Emergency (due to the failure of constitutional machinery), and
3. Proclamation of Financial Emergency (due to badly shaken of financial stability).

National Emergency (Article 352):

The President of India, after receiving a written communication of the decision of the Union Cabinet—the Prime Minister and other Ministers of the Cabinet rank—may issue a proclamation of emergency when the security of India or any part thereof is threatened or is likely to be threatened by war or foreign attack or aimed rebellion.

Every such proclamation is required to be laid before each House of Parliament. It ceases to operate at the expiration of one month unless it has been approved by a majority of total numbership of each of the two Houses (Lok Sabha and Rajya Sabha) and two-thirds majority of those present and voting. The normal duration of a proclamation of national emergency is six (6) month from the date of approval. This may be extended for another six months by another resolution. Further, the Forty-Fourth Amendment Act (1978) lays down that the one-tenth (1/10) of the total members of Lok Sabha may give notice to the Speaker of their intention of holding a special session of the House to discuss disapproval of such an emergency. And the discussion on this resolution must be held within 14 days.

We are to note that the national emergency was invoked in October 1962 (China's attack), December 1971 (Bangladesh liberation movement) and June 1975 (Internal Security threatened).

Effects of National Emergency

The effects of proclamation of national emergency are:

1. During a proclamation of national emergency, the executive power of every State in India is to be exercised in accordance with the directions given by the Union Government. Again, it is the duty of the Union to protect every State against external aggression or internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of the Constitution.
2. The Parliament is vested with unlimited power to make laws for the whole or any part of the country on the subjects of the State List. Further, the President has the power to promulgate ordinances if the Parliament is not in session. Lastly, the tenure of the Lok Sabha and of the Vidhan Sabhas of the States can be extended by the Parliament by laws for a period of one (1) year at a time.
3. While a proclamation of national emergency is in operation, the President may by order make the necessary alterations in the distribution of revenues between the Union and the State Governments.
4. The fundamental rights of six freedoms in Article 19-freedoms of expression, assembly, associations, movement or profession etc. stand automatically suspended. Further, the President may by order also suspend the constitutional right of citizens to move any court (Supreme Court or High Court) for the enforcement of any of the fundamental rights (except life and personal liberty of Articles 20 and 21) enumerated in Part III of our Constitution.

President's Rule in a State Emergency (Article: 356)

The emergency (due to failure of constitutional machinery) in a State can be proclaimed if the President of India is satisfied with the report of a Governor or otherwise, or on his own initiative that a situation has arisen in which that State Government cannot be carried on in accordance with the provisions of the Constitution.

The proclamation of State Emergency needs ratification by the Parliament within two months. After the parliament's approval, it may continue for six (6) months at a time subject to the maximum period of three (3) years. However, the Forty-Fourth Amendment Act of 1978 clearly lies down that the President's Rule can be extended beyond one year only when the National Emergency is in operation and the Election Commission certifies that holding elections to that State Legislative Assembly is difficult.

It may be pointed that during the last 50 years, almost all the States have been at one time or the other, put under the President's Rule.

Effects of State Emergency

The effects of the proclamation of State Emergency are as follows:

1. The President of our Republic can assume to himself all or any of the functions of the concerned State Government as well as the powers of the Governor, except the powers vested in the High Court
2. The powers of the State Legislature are exercisable by or under the authority of the Parliament. Again, the Union Parliament can confer the power of legislation on the President and can also authorize him to delegate such powers to any other authority.
3. According to the Supreme Court, the State Legislature remains suspended. But the Legislative Assembly (Bidhan Sabha) cannot dissolve unless it is approved by the Union Parliament.
4. When the Lok Sabha is not in session, the President can authorize expenditure from the Consolidated Fund of the State, pending subsequent sanction of such expenditure by the Parliament.

It may be noted that the fundamental rights and the judicial remedies cannot be suspended during this emergency.

Financial Emergency (Article 360)

According to Article 360 of Indian Constitution, The President of India is empowered to proclaim a State of financial emergency if he is "satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened".

The normal duration of a proclamation of financial emergency is two (2) months. However, such a proclamation must be laid before each House of Parliament. If it has been approved by resolutions of both Houses of Parliament by a majority of total membership voting separately, such a proclamation will remain in force for an indefinite period. We are to note that the financial emergency has not so far been declared in our country.

Effects Of Financial Emergency

The effects of financial emergency are as follows:

1. The President of India may give directions to the States to observe certain canons of financial propriety and also other directions necessary and adequate for maintaining financial stability in the country.


2. The President of India may direct a State to reserve all money-bills and other financial bills for his consideration after they have been passed by that State Legislature. Again, the President may also modify the normal allocation of revenues between the Centre and the States.
3. The President of India may issue directions for the reduction of salaries and allowances of all or any class of persons serving under the Union and the State Governments including the Judges of the Supreme Court and the High Courts.

It may be noted that the fundamental rights cannot be restricted, nor judicial remedies suspended during this emergency.


Prime Minister of India

Powers of Prime Minister of India:-

- Real executive authority
- He is the ex-officio Chairman of the Planning Commission, National Development Council, National Integration Council and Inter state Council
- The President convenes and prorogues all sessions of Parliament in Consultation with him
- Can recommend the dissolution of Lok Sabha before expiry
- Appoints the council of ministers
- Allocates portfolios. Can ask a minister to resign & can get him dismissed by President
- Can recommend to the President to declare emergency on grounds of war, external aggression or armed rebellion
- Advises President about President's Rule in the State or emergency due to financial instability
- Leader of the House
- II Prime Minister of India and their Tenure

Jawahar Lal Nehru	15.08.1947 to 27.05.1964	
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Gulzari Lal Nanda	27.05.1964 to 09.06.1964	
Lal Bahadur Shastri	09.06.1964 to 11.01.1966	
Gulzari Lal Nanda	11.01.1966 to 24.01.1966	
Indira Gandhi	24.01.1966 to 24.03.1977	
Morarji Desai	24.03.1977 to 28.07.1979	

Charan singh	28.07.1979 to 14.01.1980	
Indira Gandhi	14.01.1980 to 31.10.1984	
Rajiv Gandhi	31.10.1984 to 01.12.1989	
V.P. Singh	01.12.1989 to 10.11.1990	
Chandra Shekhar	10.11.1990 to 21.06.1991	

P.V. Narsimha Rao	21.06.1991 to 16.05.1996	
Atal Bihari Vajpayee	16.05.1996 to 01.06.1996	
H.D. Deve Gowda	01.06.1996 to 21.04.1997	
I.K. Gujral	21.04.1997 to 19.03.1998	
Atal Bihari Vajpayee	19.03.1998 to 13.10.1999	

Atal Bihari Vajpayee	13.10.1999 to 22.05.2004	
Dr. Manmohan Singh	22.05.2004 to 26.-5.2014	
Narendra Modi	26.05.2014 to Till-date	

The Union Parliament of India

The Parliament of India is a bi-cameral legislature. It consists of two houses- **Rajyasabha & Lok Sabha** and **President** of India. Parliament makes law with the help of its both the chambers. Laws passed by the parliament and approved by the president are enforced in the whole country.

Its powers and functions can be classified in to following heads:

1. Legislative powersx
2. Executive powers
3. Financial powers

4. Constituent powers
5. Judicial powers
6. Electoral powers
7. Other powers

1) **Legislative Powers**- All the subjects in our constitution are divided among state, union and concurrent lists. In concurrent list Parliamentary law is overriding than state legislative law. Constitution also have powers to make law with respect to state legislature in following circumstances:

- When Rajya Sabha passes a resolution to that effect
- When national emergency is under operation
- When two or more states request parliament to do so
- When necessary to give effect to international agreements, treaties and conventions
- When President's rule is in operation.

2) **Executive Powers**- According to parliamentary form of government executive is responsible to the parliament for its acts and policies. Hence parliament exercises control by various measures like committees, question hour, zero hour etc. ministers are collectively responsible to the Parliament.

3) **Financial Powers**- It includes enactment of budget, scrutinizing the performance of government with respect of financial spending through financial committees (post budgetary control)

4) **Constituent Powers**- Example - To amend the constitution, to pass any laws required

5) **Judicial Powers**- Includes

- **Impeachment of President for violation of constitution**
- **Removal of judges of Supreme Court and High court**
- **Removal of Vice- President (all bold marked are removed by the two houses RS & LS)**

- Punish members for breach of privileges like sitting in the house when the member knows he is not an eligible member, serving as member before taking oath etc

6) **Electoral Powers-** It has its participation in the election of President and Vice-President. The members of Lok Sabha elects speaker and deputy speaker from among its members. Similarly members of Rajya Sabha elects deputy chairman.

7) **Other Powers-**

- To discuss various issues of national and international importance
- Imposing emergency
- Increase or decrease area, change names, alter the boundary of the states
- Create or abolish state legislature etc any powers can be added from time to time.

Article 245 of the constitution declares that parliament may make laws for the whole or any part of the territory of India and a state legislature can make laws for the whole or any part of the state. Seventh Schedule of the constitution distributes the legislative powers between the centre and the state by putting subjects into Union List, State List and Concurrent List. The centre can make law on any of the subjects in the union list or in the concurrent list. The parliament can override the law of a state on a subject listed in concurrent list. In addition to these powers, the residuary powers are also vested with the parliament. The constitution also empowers the parliament to make law on a state subject in the following circumstances:

- (i) When Rajya Sabha passes a resolution supported by two-thirds of the members present and voting
- (ii) When a Proclamation of Emergency is in operation
- (iii) When two or more states make a joint request to the parliament
- (iv) When it is necessary for parliament to implement any international treaty, agreement or convention
- (v) When President's rule is in operation in the state

Executive Powers and Functions

In India, political executive is a part of the parliament. Parliament exerts control over the executive through procedural devices such as question hour, zero hour, calling attention motion, adjournment motion, half-an-hour discussion, etc. Members of different political parties are elected/nominated to the parliamentary committees. Through these committees, the parliament controls the government. Committee on ministerial assurances constituted by parliament seeks to ensure that the assurances made by the ministries to parliament are fulfilled.

Article 75 of the constitution mentions that the council of ministers remains in office as long as it enjoys the confidence of the Lok Sabha. The ministers are responsible to the Lok Sabha individually and collectively. Lok Sabha can remove the council of ministers by passing a no confidence motion in the Lok Sabha. Apart from that, the Lok Sabha can also express lack of confidence in the government in the following ways:

- (i) By not passing a motion of thanks on the President's inaugural address.
- (ii) By rejecting a money bill
- (iii) By passing a censure motion or an adjournment motion
- (iv) By passing a cut motion
- (v) By defeating the government on a vital issue

These powers of parliament help in making government responsive and responsible.

Financial Powers and Functions

Parliament enjoys the supreme authority in financial matters. Executive cannot spend any money without parliament's approval. No tax can be imposed without the authority of law. The government places the budget before the parliament for approval. The passage of the budget means that the parliament has legalised the receipts and expenditure of the government. The public accounts committee and the Estimates committee keep a watch on the spending of the government. These committees scrutinize the account and bring out the cases of irregular, unauthorised or improper usage in public expenditure.

In this way, parliament exerts budgetary as well as post-budgetary control on the government. If the government fails to spend the granted money in a financial year, the remaining balance is sent back to the Consolidated Fund of India. This is known as 'rule of lapse'. This also leads to increase in expenditure by the end of the financial year.

Judicial Powers and Functions

Mentioned below are the judicial powers and functions of the parliament:

- (i) It has the power to impeach the President, the Vice-President, the judges of the Supreme Court and the High Court.
- (ii) It can also punish its members or outsiders for the breach of privilege or its contempt.

Electoral Powers and Functions

Mentioned below are the electoral powers and functions of the parliament:

- (i) The elected members of the parliament (along with state assemblies) participate in the election of the President
- (ii) All the members of the parliament participate in the election of the Vice-President.
- (iii) The Lok Sabha elects its Speaker and Deputy Speaker.
- (iv) The Rajya Sabha elects its Deputy Chairman.
- (v) Members of various parliamentary committees are also elected.

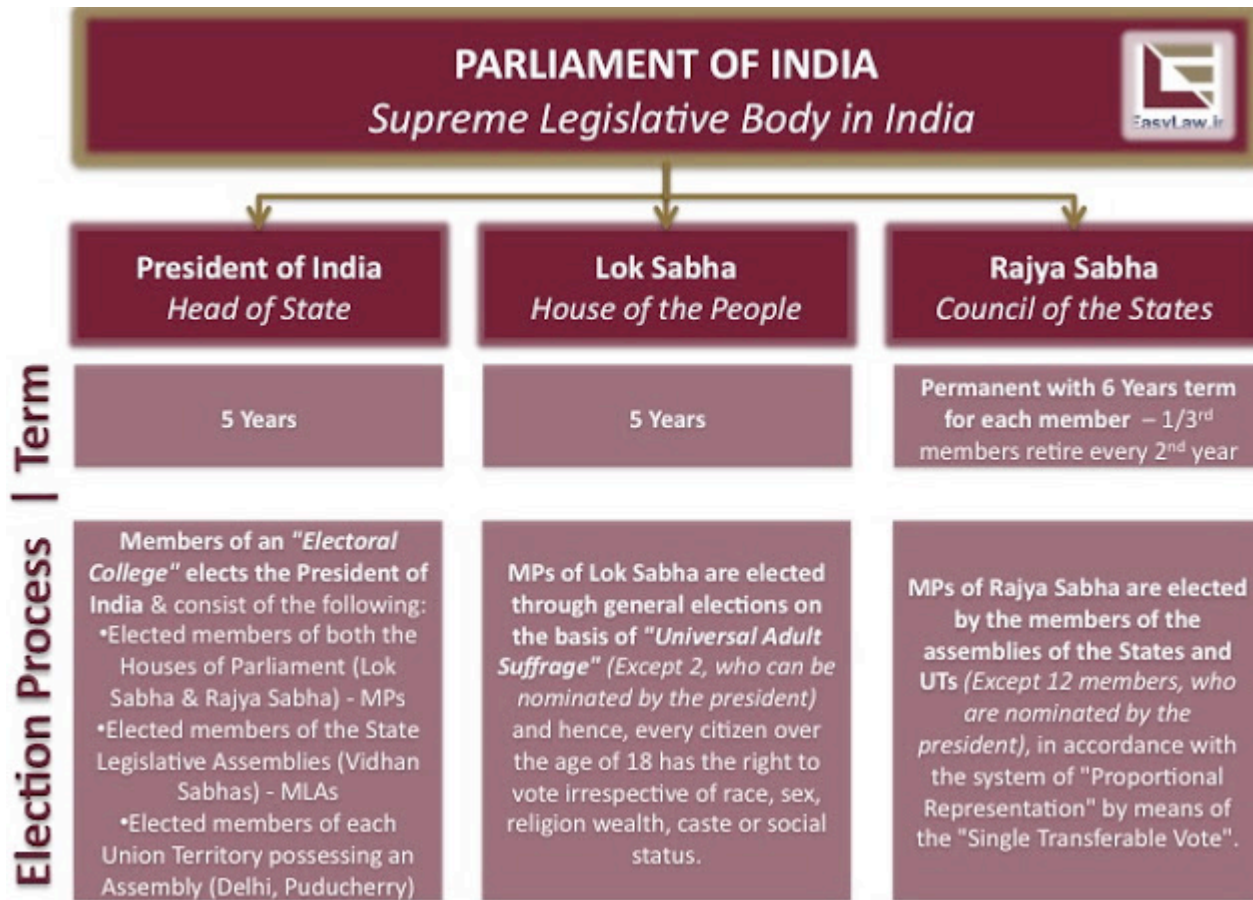
Constituent Powers and Functions

Only parliament is empowered to initiate any proposal for amendment of the constitution. A bill for amendment can be initiated in either House of Parliament. However, the state legislature can pass a resolution requesting the parliament for the creation or abolition of the legislative council in the state. Based on the resolution, the parliament can make an act for amending the constitution for that purpose.

There are three types of bills for constitution amendment which requires:

- (i) **Simple Majority:** These bills need to be passed by simple majority, that is, a majority of members present and voting in each of the House.
- (ii) **Special Majority:** These bills need to be passed by the majority of the House and two-third of the members present and voting in each of the House.

(iii) Special majority and consent of half of all the state legislatures: These bills are to be passed by the special majority in each house. Along with this, atleast half of the state legislatures should give consent to the bill.



- What is Lok Sabha?
- What is Rajya Sabha?
- What is the working relationship between the two houses?

- What is Quorum?
- What is Bill, Act, Reading, Joint Session?
- Name a few bills pending in Parliament?
- Name two acts passed during the last ten years.

Union Legislatures

The President of India, the Lok Sabha, and the Rajya Sabha are collectively known as the Indian Parliament, which is the chief legislative authority in India. The President of India is the head of the Parliament. The Lok Sabha and the Rajya Sabha are the two houses of Parliament, where Lok Sabha is the lower house of the Parliament and Rajya Sabha is the upper house of the Parliament.

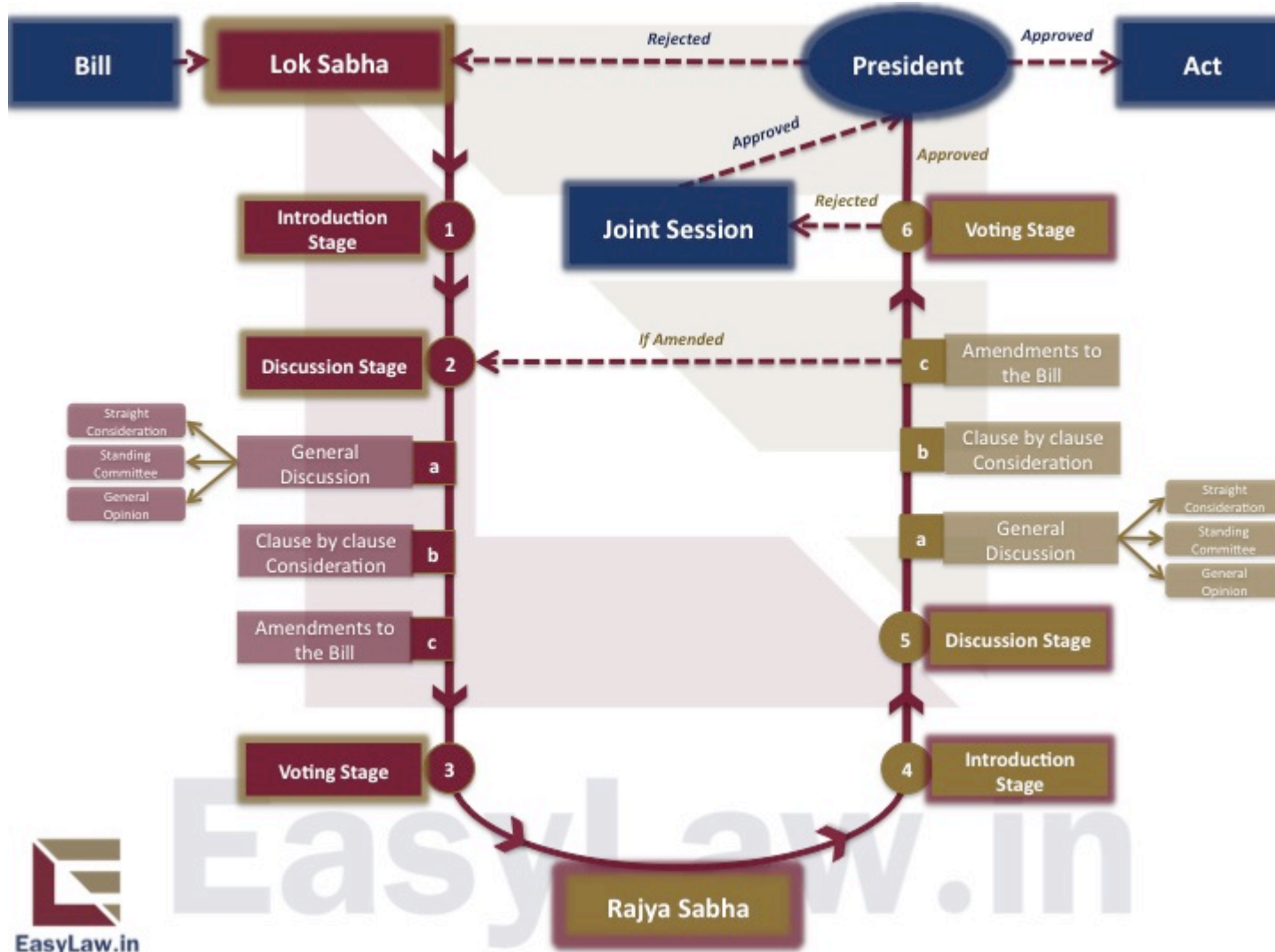
Members of Lok Sabha are directly elected by the eligible voters. Members of Rajya Sabha are elected by the elected members of State Legislative Assemblies in accordance with the system of proportional representation by means of single transferable vote. The speaker is the representative of Lok Sabha. On the other hand, the Vice-President of India is the representative of Rajya Sabha.

There are a lot of differences between Lok Sabha and Rajya Sabha. Some of them are/;

- i) Lok Sabha is the lower chamber of the Parliament whereas Rajya Sabha is the upper chamber. However, you should not be mistaken as it does not mean that the powers of Lok Sabha are inferior as compared to the other house. In fact, it is just the opposite.
- ii) Lok Sabha can have a maximum of 552 members. At present, there are 545 members out of which 2 are nominated by the President from the Anglo-Indian community. On the other hand, Rajya Sabha have 250 members out of which 12 members have been nominated by the President from amongst the persons having special knowledge in art, science, literature etc.
- iii) The members of the Lok Sabha are elected on the basis of Universal Adult Franchise whereas the members of the Rajya Sabha are elected by the Legislative assembly of each state through proportional representation.
- iv) Lok Sabha has the power to introduce the budget of the country whereas no such power resides in the hands of Rajya Sabha. Lok Sabha is called the controller of the purse of the nation. Rajya Sabha can only discuss it when passed by the Lok Sabha.
- v) Lok Sabha exercises effective control on the ministers through various motions such as no confidence motion, censure motion, question hour, adjournment motion etc. On the other hand, Rajya Sabha cannot pass any such motion. It exercises control on them by means of questions, debates and discussions.
- vi) Lok Sabha is dissolved after every five years or earlier by the president. On the other hand, Rajya Sabha is a permanent body which is not subject to dissolution. One-third of its members retire after every second year.

vii) A person should be at least 25 years of age to be eligible for Lok Sabha whereas our constitution requires a person to be at least 30 years of age to be a member of Rajya Sabha.

viii) Money bills can only be introduced in Lok Sabha. After that, it is passed to the Rajya Sabha for consideration. Rajya Sabha must pass the bill within fourteen days with or without any changes. It is up to the Lok Sabha to accept or reject the changes.



The legislatures in the state are either bicameral (consisting of two Houses) or unicameral (consisting of one House). The lower House is always known as the Legislative Assembly (**Vidhan Sabha**) and the **Upper House** wherever it exists as the **Legislative Council** (Vidhan Parishad).

Indian polity is federal in nature with a central government while having elected governments at state levels also. At both federal as well as state level, polity is bicameral with two houses of legislature. At the central level they are called as Rajyasabha (Upper House) and Lok Sabha (Lower House), Along similar lines are Vidhan Sabha (Lower House) and Vidhan Parishad (Upper House) at state level.

Elected representatives of Vidhan Sabha are called MLA while those nominated to Vidhan Parishad are called MLC. There are many similarities between MLA and MLC though there are differences as well.

Vidhan Sabha (State Assembly or Legislative assembly) -

It consists of representatives directly elected by the people . Maximum length is 500 members & Minimum is 60 . (Depends on population of state) . The members are directly elected by the people - we call it "Vidhansabha Chunaav" .

It work same as parliament , the difference is that its a part of State Legislature .

In Seats , there is reservation for SC & ST ,

Similarly as parliament , bills of public importance are introduced and discussed.

Duration - 5 Years (However , Governor is authorised to dissolve the assembly at any time for fresh election)

22 States Have Unicameral System i.e They only have Vidhan Sabha .

Qualification - 1. Citizen of India 2. Not less than 25 years of age . 3. Must make oath before person appointed by Election Commission prescribed under 3rd Schedule .

The members of the Vidhan Sabha are known as **MLA (Member of Legislative Assembly)**.

Powers - The Vidhan Sabha has special powers including a motion of no confidence against the government in the state, introducing money bills and it has a higher hand in passing ordinary bills in the state.

Vidhan Parishad (State Council or legislative Council) -

5/6 th of the total number of member of legislative council are indirectly elected & 1/6 th of the total number of member are nominated by government.

(i.e Council consist of only nominated or indirectly elected member)

Only **6 States Have Vidhan Parishad** - Maharashtra , Andhra Pradesh , Uttar Pradesh , Bihar , Karnataka and Jammu Kashmir

Size of the council depends on the size of assembly of concerned state . There should be maximum 1/3rd of the total seat of the assembly . Minimum 40 seats are must .

Duration - It is permanent, which means it cannot be dissolved during a State of Emergency. However , **each member serves a six-year term** . It is set up in a way that **one-third of the Council's members expire every two years**.

The members of the Vidhan Parishad are known as **MLCs (Members of Legislative Council)**

Qualification - 1. Citizen of India 2. Not less than 30 years of age . 3. Oath from 3rd Schedule .

Manner of Election -

- One-third are elected by members of local bodies such as corporations, municipalities, and zilla parishads.
- One-third are elected by members of Legislative Assembly from among the persons who are not members of the Assembly.
- One-twelfth are elected by persons who are graduates of three years' standing residing in that state.
- One-twelfth are elected by persons engaged for at least three years in teaching in educational institutions within the state not lower than secondary schools, including colleges and universities.
- One-sixth are nominated by the governor from persons having knowledge or practical experience in fields such as literature, science, arts, the co-operative movement and social service.

Powers - The powers of the Vidhan Parishad are quite similar to the Vidhan Sabha; however, in reality it is considered to be weaker in certain matters. A **bill passed has more weight with the Vidhan Sabha**, while the Vidhan Parishad can **only delay the bill for a maximum of four months**.

The Vidhan Parishad does not have any powers regarding passing money bills.

Legislative powers has been divided within two houses in India at central level and some of the states which includes Maharashtra, UP, AP, Telangana, Bihar, Karnataka and J&K (Rajasthan and Assam are on the way). The simple intention behind this is to avoid the monopoly of single house or ruling party. The difference between Vidhan sabha and Vidhan parishad is very much similar to that of Rajya sabha and Lok sabha. There are enough points to segregate between two houses:

- Member of vidhan parishad is MLC(Member of legislative council) and that of vidhan sabha is MLA(Member of legislative assembly).
- MLAs are elected directly by the citizens, where as MLCs are indirectly elected or rather selected by the MLAs, Jilha parishads, Gram panchayts, Muncipalities, State governor and teachers.
- Tenure for MLA is **five** years (if all goes ok) and for MLC it is **six** years. The whole vidhan sabha is dissolved at the same time but that doesn't happens in case of vidhan parishad. 1/3rd of its total members are elected after every **two** years.

The Constitution of India provides for a legislature in each State and entrusts it with the responsibility to make laws for the state. However, the composition of a state Legislature can be different in different states. It can be either bicameral or unicameral. Presently, only six states (Andhra Pradesh, Bihar, J&K, Karnataka Maharashtra and UP) have bi-cameral legislatures. Twenty two States and Two Union Territories (Delhi and Puducherry) have uni-cameral Legislatures.

In case of a bicameral state legislature, the upper house is known as State Legislative Council (Vidhan Parishad) and the lower house as the State Legislative Assembly (Vidhan Sabha). Where there is only one House of the State Legislature, it is known as the State Legislative Assembly(LIKE LS). Orissa has a unicameral legislature with Orissa Legislative Assembly as its all powerful house.

(I) Method of Abolition or Creation of a State Legislative Council:

The power to establish or abolish the Legislative Council in a state belongs to the Union Parliament. It can do it by enacting a law. The Parliament, however, acts when the Legislative Assembly of the concerned state passes a desired resolution by a majority of its total membership and by a majority of **not less than two-thirds of the members of the State Legislative Assembly present and voting.**

Organisation of a State Legislature:

Powers of State Legislature:

1. Legislative Powers:

The State Legislature can make laws on the subjects of the State List and the Concurrent List. It can enact any bill on any subject of State List, which becomes an Act with the signatures of the Governor. Normally, the Governor acts as a nominal and constitutional head and as such follows the advice of the State Chief Minister and his Council of Ministers.

However, he can reserve some bills passed by the State Legislature for the approval of the President of India. Further, in case a law made by the State Legislature on a concurrent subject comes into conflict with a Union Law on the same subject, the latter gets precedence over the former. In ordinary law-making, both the Houses (Legislative Assembly and Legislative Council wherever these exist together) have co-equal powers. In practice the

Legislative Assembly dominates the law-making work. Most of the non-money ordinary bills are introduced in the Legislative Assembly and it plays a major role in their passing. The Legislative Council acts only as a revising and delaying second chamber.

A bill passed by the Legislative Assembly and rejected by the Legislative Council or not decided upon by the latter within 3 months, when re-passed by the Legislative Assembly becomes an Act after the expiry of one month from the date on which it was sent to the Legislative Council a second time.

A bill first passed by the Legislative Council becomes an Act only when it gets the approval of the Legislative Assembly. Thus, Legislative Council can only delay the passing of an ordinary bill by a maximum of 4 months. In case the State Legislature is a unicameral body, all the law-making powers are exercised by the Legislative Assembly.

2. Financial Powers:

The State Legislature has the power to levy taxes in respect of all subjects of the State List. It is the custodian of the finances of the state. No revenue can be collected or tax can be levied or collected by the state government without the consent of the State Legislature. The budget and all other financial policies and programmes of the state government become operational only after getting an approval from the State Legislature.

However, in emergencies declared under Articles 352, or 356 or 360, the financial powers of the state become subordinate to the Union. When the state is under a constitutional emergency (Art. 356), the State Legislature stands either suspended or dissolved. In this situation, the financial powers for the state are exercised by the Union Parliament.

When a State Legislature is unicameral, all the financial powers are naturally exercised by the Legislative Assembly. However, even when it is bi-cameral, the real financial powers are in the hands of the Legislative Assembly. A money bill can be introduced only in the Legislative Assembly and after passage it goes to the Legislative Council.

The latter can delay its passage for only 14 days. In case, it rejects or amends the bill, the decision of the Legislative Assembly prevails. When the Legislative Council returns a financial bill to the Legislative Assembly with some amendments, it is the power of the Legislative Assembly to accept or reject these. Thus, in respect of financial powers, the real authority is in the hands of the State Legislative Assembly.

3. Power to control the Executive:

Control over the State Council of Ministers is exercised by the State Legislative Assembly. Little role has been assigned to the State Legislative Council. The State Chief Minister is the leader of majority in the State Legislative Assembly. The State Council of Ministers is collectively responsible before the Legislative Assembly.

The latter can cause the fall of the ministry by passing a vote of no-confidence or by rejecting a bill or policy or budget sponsored by the Council of Ministers. The State Legislative Council can exercise only a limited control over the ministry by putting questions and supplementary questions to the ministers.

4. Other Powers:

The State Legislature, particularly its Legislative Assembly, exercises several other powers. The elected members of the Legislative Assembly (MLAs) participate in the election of the President of India. They also elect representatives of the state in the Rajya Sabha. Certain constitutional amendments can be made by the Union Parliament only with the ratification by at least half of the State Legislatures.

The state legislature considers the reports of the State Public Service Commission, State Auditor General, and others. It also acts as a forum for ventilation of the grievances of the people. The State Legislative Assembly has the right of adopting a resolution for the creation or abolition of the State Legislative Council.

Position of a State Legislature:

The State Legislature occupies the same position in a state as is the position of the Parliament in the Union. There is, however, a difference of degree in their relative powers. Indian Unitarian Federalism makes the Union Parliament more powerful than each state legislature. Further, there are several specific limitations on the powers of a state legislature.

Some Limitations on the Powers of State Legislature:

(1) Prior consent of the President of India for introduction of some Bills:

There are certain bills which can be introduced in a state legislature only with the prior consent of the President of India.

(2) Reservation of bills by the Governor for President's Assent:

There are certain bills, which after having been passed by the state legislature, can be reserved by the Governor for the consent of the President. Such bills become laws only after the President has given his assent.

(3) Limitation that can be imposed by the Rajya Sabha:

The Union Parliament gets the power to pass laws on the State List, (for one year) if the Rajya Sabha adopts a resolution (supported by 2/3rd majority of the members present and voting) and declares a state subject mentioned in the resolution as a subject of national importance.

(4) Limitations during national Emergency:

When a national emergency (Under Art. 352) is in operation, the Parliament is empowered to pass a law on any subject of the State List. The law so passed operates during the period of emergency and for six months after the end of the emergency.

(5) Limitations during a Constitutional Emergency:

During the operation of constitutional emergency in a state under Art 356, the Union Parliament gets the authority of making laws for that state. The State Legislature stands either dissolved or suspended.

(6) Discretionary Powers of the Governor:

Discretionary powers of the Governor of a state also constitute a limitation on the State Legislature. Whenever he acts in his discretion, he is beyond the jurisdiction of the State Legislature. Acting in his discretion, the Governor can even dissolve the State Legislative Assembly.

(7) Precedence of Union Laws on the Concurrent Subject:

They State Legislature and the Union Parliament, both have the concurrent power to make laws on the subjects of the Concurrent List. If both the Union Parliament and a State Legislature pass a law on the same subject of the Concurrent List and there is inconsistency between the two, the law passed by the Union Parliament gets precedence over the corresponding state law.

Thus each state legislature in India exercises law-making powers over the subjects given to it by the Constitution. However, even in respect of these, it exercises law-making powers under the above constitutional limitations. Nevertheless in general the State Legislatures act as important and powerful legislatures in all the 28 States and 2 Union Territories of India.

When a bill needs to become an act there are readings the first reading is when you introduce the bill the second is for discussing the bill and the third reading is a vote count to determine the majority who want the bill to become an act or to make the bill nullified. Special bill is for constitutional amendments, financial bill is one which impacts the consolidated funds of india eg taxes, ordinary bill is one discussed by both houses, money bill is initiated only by loksabha .

First Reading:

For Money bills and "Financial bills - I" prior recommendation of president is necessary. For "Financial bills - II" it will be sufficient if the presidents recommendation is received before the the bill is put to vote.

If the bill is money bill, speaker certifies the bill is money bill. For financial bills no such certification is needed.

Reference of bill to Standing Committee



Second Reading:

Select Committee/ Joint Committee

Discussion takes place on each clause of the Bill and amendments to clause moved



Third Reading:

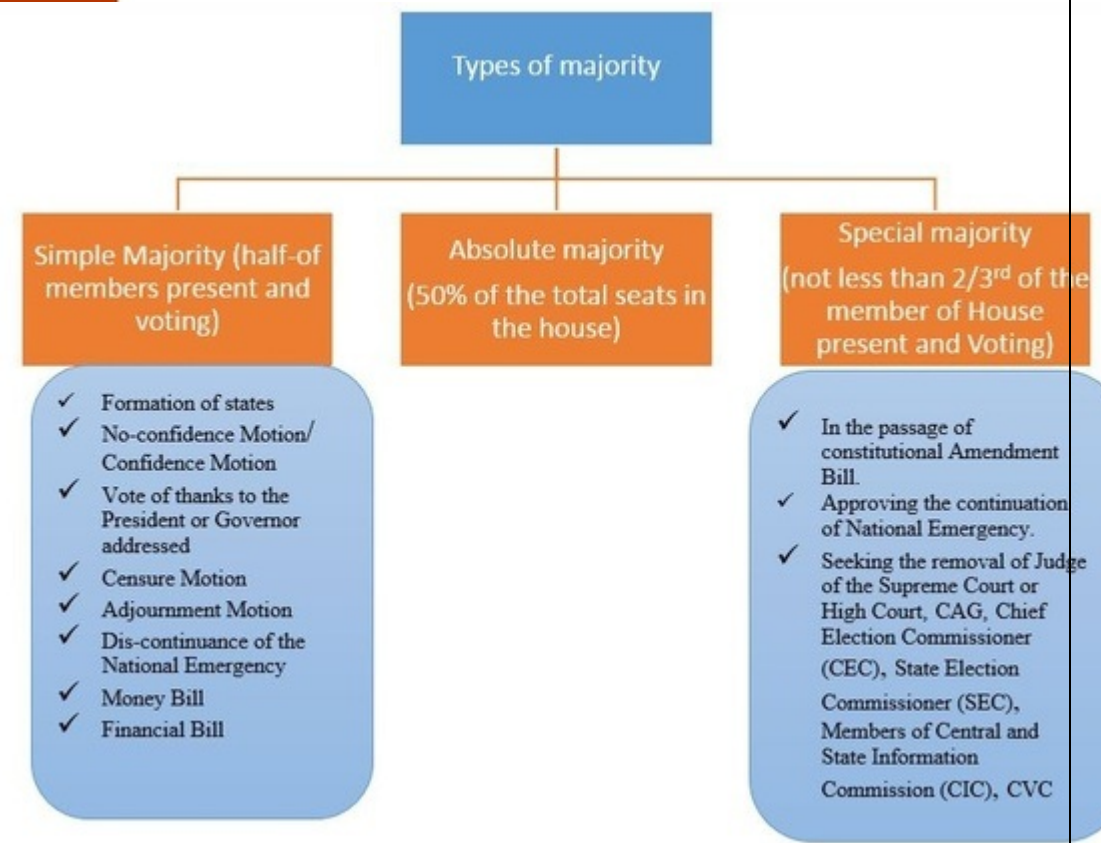
The bill is put to vote. Some bills require special majority, some absolute some simple.



The bill then is passed to other house where the same procedure is repeated. If no objections then passed. Rajya Sabha cannot *make* amendments in a Money Bill



Various types of Majority for passing the bill:



Assent to the bills:

Article 111 deals with assent of bills by President. It states that:

Article 111. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President

shall declare either that he assents to the Bill, or that he withholds assent therefrom Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom

- President can reject a money bill whereas he cannot send it for reconsideration
- President cannot withhold his assent in case of constitutional amendment bills
- President cannot withhold his assent if the bill is passed again after he sends it for reconsideration

Committee system in India

There are two types of Parliamentary Committee, the Standing Committee and the Ad hoc Committee.

Classification

Standing committees are broadly classified as follows:

- Standing Committee of Rajya Sabha
- Standing Committee of Lok Sabha
- Departmentally related Standing Committee under Rajya Sabha
- Departmentally related Standing Committee under Lok Sabha

Based on the functions, standing committees can be broadly classified in following categories:

- Committees to Enquire

- Committees to scrutinise and control
- Committees relating to day-to-day business of the House
- House Keeping Committees

Coalition government

A coalition government is a cabinet of a parliamentary government in which several political parties cooperate, reducing the dominance of any one party within that coalition. The usual reason given for this arrangement is that no party on its own can achieve a majority in the parliament. A coalition government might also be created in a time of national difficulty or crisis (for example, during wartime or economic crisis) to give a government the high degree of perceived political legitimacy or collective identity it desires while also playing a role in diminishing internal political strife. In such times, parties have formed all-party coalitions (national unity governments, grand coalitions). If a coalition collapses, a confidence vote is held or a motion of no confidence is taken.

When a general election does not produce a clear majority for a single party, parties either form coalition cabinets, supported by a parliamentary majority, or minority cabinets which may consist of one or more parties. Cabinets based on a group of parties that commands a majority in parliament tend to be more stable and long-lived than minority cabinets. While the former are prone to internal struggles, they have less reason to fear votes of no confidence. Majority governments based on a single party are typically even more stable, as long as their majority can be maintained.

At the national level, India's first-ever coalition government was formed under the Prime Ministership of Morarji Desai, which existed from 24 March 1977 to 15 July 1979, headed by the Janata Party. The first successful coalition government in India which completed the whole 5-year term was the Bharatiya Janata Party (BJP) led National Democratic Alliance with Atal Bihari Vajpayee as Prime Minister from 1999 to 2004. Then another coalition, the United Progressive Alliance, consists of 13 separate parties ruled India for two terms from 2004 to 2014. Now after the elections in May 2014, National Democratic Alliance again came into power, with Narendra Modi as Prime Minister.–

Features

- Lack of inherent understanding between the constituent parties
- Negative aim of dislodging the most important party
- Marriages of convenience
- Politics of Defection
- Selfish narrow interests
- Co-operative effort to overcome problem of hung parliament

- Large sized ministry
- Reconciliation of differences caused by compromising issues.

Types of Majorities needed in Indian Parliament

There are various types of majorities followed in Indian Parliament to pass specific bills and motions as follows:

- Simple Majority
- Absolute Majority
- Effective Majority
- Special Majority

Devices of Parliamentary Proceedings

- **Question Hour**
- **The first hour of every parliamentary sitting is slotted for this. During this time, the members ask questions and the ministers usually give answers. The questions are of three kinds, namely, starred, unstarred and short notice.**
- **1. A starred question (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.**
- **2. An unstarred question, on the other hand, requires a written answer and hence, supplementary questions cannot follow.**
- **3. A short notice question is one that is asked by giving a notice of less than ten days. It is answered orally.**

A brief description of various types of motions has been given below:

- **1. Closure Motion:** It is a motion moved by a member to cut short the debate on a matter before the House. If the motion is approved by the House, debate is stopped forthwith and the matter is put to vote. There are four kinds of closure motions :
 - (a) **Simple Closure:** It is one when a member moves that the ‘matter having been sufficiently discussed be now put to vote’.
 - (b) **Closure by Compartments:** In this case, the clauses of a bill or a lengthy resolution are grouped into parts before the commencement of the debate. The debate covers the part as a whole and the entire part is put to vote.
 - (c) **Kangaroo Closure:** Under this type, only important clauses are taken up for debate and voting and the intervening clauses are skipped over and taken as passed.
 - (d) **Guillotine Closure:** It is one when the undiscussed clauses of a bill or a resolution are also put to vote along with the discussed ones due to want of time (as the time allotted for the discussion is over).

- **2. No-Confidence Motion:** Article 75 of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys confidence of the majority of the members of the Lok Sabha. **In other words, the Lok Sabha can remove the ministry from office by passing a no-confidence motion.** The motion needs the support of 50 members to be admitted.
- **3. Privilege Motion: It is concerned with the breach of parliamentary privileges by a minister.** It is moved by a member when he feels that a minister has committed a breach of privilege of the House or one or more of its members by withholding facts of a case or by giving wrong or distorted facts. Its purpose is to censure the concerned minister.
- **4. Motion of Thanks :The first session after each general election and the first session of every fiscal year is addressed by the president.** In this address, the president outlines the policies and programmes of the government in the preceding year and ensuing year. This address of the president, which corresponds to the 'speech from the Throne in Britain', is discussed in both the Houses of Parliament on a motion called the 'Motion of Thanks'. At the end of the discussion, the motion is put to vote. This motion must be passed in the House. Otherwise, it amounts to the defeat of the government. This inaugural speech of the president is an occasion available to the members of Parliament to raise discussions and debates to ex-amine and criticise the government and administration for its lapses and failures.
- **5. Calling Attention Motion: It is introduced in the Parliament by a member to call the attention of a minister to a matter of urgent public importance, and to seek an authoritative statement from him on that matter.** Like the zero hour, it is also an Indian innovation in the parliamentary procedure and has been in existence since 1954. However, unlike the zero hour, it is mentioned in the Rules of Procedure.
- **6. No-Day-Yet-Named Motion :**It is a motion that has been admitted by the Speaker but no date has been fixed for its discussion. The Speaker, after considering the state of business in the House and in consultation with the leader of the House or on the recommendation of the Business Advisory Committee, allots a day or days or part of a day for the discussion of such a motion.
- **7. Censure Motion:** It should state the reasons for its adoption in the Lok Sabha. It can be moved against an individual minister or a group of ministers or the entire council of ministers. It is moved for censuring the council of ministers for specific policies and actions. If it is passed in the Lok Sabha, the council of ministers need not resign from the office.
- **8. Half-an-Hour Discussion :It is meant for discussing a matter of sufficient public importance,** which has been subjected to a lot of debate and the answer to which needs elucidation on a matter of fact. The Speaker can allot three days in a week for such discussions. There is no formal motion or voting before the House.
- **9. Short Duration Discussion: It is also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. The members of the Parliament can raise such discussions on a matter of urgent public importance.** The Speaker can allot two days in a week for such discussions. There is neither a formal motion before the house nor voting. This device has been in existence since 1953.
- **10. Point of Order:** A Member can raise a point of order when the proceedings of the House do not follow the normal rules of procedure. A point of order should relate to the interpretation or enforcement of the Rules of the House or such articles of the Constitution that regulate the business of the House and should raise a question that is within the cognizance of the Speaker. It is usually raised by an opposition member in order to control the government. It is an extraordinary device as it suspends the proceedings before the House. **No debate is allowed on a point of order.**

- **11. Special Mention:** A matter which is not a point of order or which cannot be raised during question hour, half-an hour discussion, short duration discussion or under adjournment motion, calling attention notice or under any rule of the House can be raised under the special mention in the Rajya Sabha. Its equivalent procedural device in the Lok Sabha is known as 'Notice (Mention) Under Rule 377'.
- **12. Adjournment Motion:** (postponement session) When there is an urgent matter of public importance then a member may propose that the business of the house be adjourned for discussing that matter. This motion can be moved only with the consent of the Speaker. Generally such motions are discussed in the afternoon at 4.00 p.m.
- **13. Lame-duck Session:** It refers to the **last session of the existing Lok Sabha**, after a new Lok Sabha has been elected. Those members of the existing Lok Sabha who could not get re-elected to the new Lok Sabha are called lame-ducks.

MOTIONS IN REGARD TO THE BUDGET

- The most popular and well known motions which are used by members in connection with the budget are three. The demand for grants are considered and passed by Lok Sabha. Hence, these motions can be moved only in Lok Sabha.
- **1. Policy Cut:** The member moves that the demand be reduced to one rupee. The member moving this motion in fact wants to discuss the policy behind the demand in detail and gives alternative policy suggestions.
- **2. Economy Cut:** In this motion the reduction in the amount of demand is substantial.
- The amount to be reduced is clearly stated and the object is to bring about economy in the expenditure.
- **3. Token Cut:** In this motion the demand is sought to be reduced by Rs. 100/-. The object of the motion is to ventilate a specific grievances within the sphere of responsibility of the Government.
- Private Member's Resolution -A resolution may be moved by a Minister or by a private member. For private members generally afternoons are reserved on alternate Fridays. Resolutions are selected by ballot. Resolutions may be brought under Rule 200 of the Lok Sabha for the removal of the Speaker or the Deputy Speaker.

The Prime Minister

- The Prime Minister is the head of the government whereas the President is head of the state.
- He is the real executive authority.
- Prime Minister is appointed by the president.
- Ministers are appointed by the President in accordance with the advice given by the Prime Minister.

- Council of ministers hold the office during the pleasure of The Prime Minister.
- Prime Minister and Council of Ministers are responsible to the Lok Sabha and to the President.

Provisions regarding

Prime Minister and Council of Ministers

- ❖ There will be a Prime Minister and Council of Ministers to aid and assist the President of India.
- ❖ The President shall administer the oath of secrecy to the Ministers.
- ❖ The total number of Ministers including the Prime Minister shall not exceed 15% of the total strength of Lok Sabha.
- ❖ The salaries and allowances of all ministers shall be determined by the Parliament.

Selection of the Prime Minister

- ❖ The Prime Minister is directly elected by the people.
- ❖ The person gets elected as the members of the Lok Sabha or Rajya Sabha.
- ❖ The leader of the with majority of votes in Lok Sabha is appointed as the Prime Minister.
- ❖ The President administers the oath to the Prime Minister after his/her appointment by the President.

Powers and functions of Prime Minister

- ❖ Prime Minister is the head of Council of Ministers.
- ❖ He is responsible for co-ordination among the ministers.
- ❖ He can allocate, reshuffle various portfolios among ministers
- ❖ Prime Minister is the leader of Lok Sabha.
- ❖ He can recommend the dissolution of Lok Sabha at any time.
- ❖ He advises President regarding summoning and proroguing the sessions of Parliament
- ❖ Prime Minister is the architect of foreign policies.
- ❖ Prime Minister is the chairperson of Planning Commission and Development council

- ❖ Prime Minister decides about the proclamation of emergency.
- ❖ His resignation is considered as the resignation of entire Council of Ministers.
- ❖ Prime Minister acts a link between the President and Council of Ministers.
- ❖ He advises President regarding the appointment of important officials like Attorney General, CAG, Auditor General of India, members of UPSC etc.
- ❖ Prime Minister is the political head of services.



COUNCIL OF

- Article 74 (1) of the that “there shall be a the Prime Minister at the head to aid and advise the President who shall in the exercise of his functions, act in accordance with such advice.”

MINISTERS

Indian Constitution states Council of Ministers with

- The President has a wide range of power including executive, legislative, judicial, and emergency powers. However, in a parliamentary system (e.g. India), these powers are in reality used by the President only on the advice of the Council of Ministers.
- The Prime Minister and the Council of Ministers have support of the majority in the Lok Sabha and they are the real executive.
- The Prime Minister is obliged to furnish all the information that the President may call for.
- The Council of Ministers is headed by the Prime Minister.
- In the parliamentary form of executive, it is essential that the Prime Minister has the support of the majority in the Lok Sabha. And the moment the Prime Minister loses this support of the majority; he or she loses the office.
- In case no party is in majority, i.e in case of ‘**hung parliament**’, a few parties can form government ‘**in coalition.**’
- The Council of Ministers constitutes not more than 15 percent of a total number of members of the House of the People (91st Amendment).
- Types of Ministers There are three types of ministers viz. Cabinet Ministers, Ministers of State, Deputy Ministers.
- Cabinet ministers are of highest rank and they hold key ministries. However, salary of a cabinet minister is same as that of a minister of state.
- Usually, minister of state assists the cabinet minister in his functions. At the same time, state ministers can be given independent charge also. In such situation, a state minister performs same functions as cabinet ministers.

DISTINCTION BETWEEN COUNCIL OF MINISTERS AND CABINET

Council of ministers

1. It is a wider body consisting of 60 to 70 ministers.

2. It includes all the three categories of ministers, that is, cabinet ministers, ministers of state, and deputy ministers.
3. It does not meet, as a body, to transact government business. It has no collective functions.
4. It is vested with all powers but in theory.
5. Its functions are determined by the cabinet.
6. It is a constitutional body, dealt in detail by the Articles 74 and 75 of the Constitution. Its size is determined by the prime minister according to the exigencies of the time and requirements of the situation.
7. It is collectively responsible to the Lower House of the Parliament.

Cabinet

1. It is a smaller body consisting of 15 to 20 ministers.
2. It includes the cabinet ministers only. Thus, it is a part of the council of ministers.
3. It meets, as a body, frequently and usually once in a week to deliberate and take decisions regarding the transaction of government business. Thus, it has collective functions.
4. It exercises, in practice, the powers of the council of ministers and thus, acts for the latter.
5. It directs the council of ministers by taking policy decisions which are binding- on all ministers.

6. It was inserted in Article 352 of the Constitution in 1978 by the 44th Constitutional Amendment Act. Thus, it did not find a place in the original text of the Constitution.

7. It enforces the collective responsibility of the council of ministers to the Lower House of Parliament.

Council of Ministers

- ❖ The Council of Ministers headed by a Prime Minister is the real executive authority in our administrative system.
- ❖ They are divided into three categories :-
 - Cabinet Ministers
 - Ministers of State
 - Ministers of State with independent charge.
- ❖ The Council of Ministers assist Prime Minister In taking all the important decisions regarding policies of the government.
- ❖ It consists of 60-70 members.
- ❖ It does not meet as a body, to transact government business
- ❖ It has no collective functions.
- ❖ Council of Ministers has vested with all powers but in theory.
- ❖ Its functions and decisions are determined by the cabinet
- ❖ Its classification and size are determined by the Prime Minister according to the situation.

The Cabinet

- ❖ It is a smaller body consisting of 15-20 members.
- ❖ It is a part of Council Of Ministers.
- ❖ The Cabinet meets frequently to deliberate and take decisions regarding the transaction business.
- ❖ It directs the Council of Ministers by taking policy decisions which are binding on all Ministers and also implements them.

- ❖ It enforces collective responsibility of Council Of Ministers to the lower house of Parliament.

The role of the Cabinet

- ❖ It is the highest decision making authority in the Indian Political System.
- ❖ It is the chief policy formulating body of the Parliament.
- ❖ It is the chief coordinator of central administration.
- ❖ It is the chief advisory body of the President and its advice is binding on him.
- ❖ It deals with all foreign policies and foreign affairs.
- ❖ It deals with all major legislative and financial matters.

State Legislature

Art.168.

Five States (Bihar,Jammu & Kashmir,Maharashtra,Karnataka ,Uttar Pradesh) shall have two Houses:

- Legislative Assembly: Lower House: (Vidhan Sabha).
- Legislative Council : Upper House: (Vidhan Parishad)

[Art.169]:

Creation or Abolition of the Legislative Council

- If Legislature passes a *resolution*
- majority of total membership and
- not less than 2/3 members present and voting.
- Transmitted to the Parliament

[Art.170]:

Composition of Legislative Assembly (LA)

- *Each State shall have a LA*
- *Not more than 500 members*
- *Not less than 60 members*
- *Direct election from territorial constituencies.*
- *Ratio seats : population uniform*
- *Delimitation-- end of each decennial Census*

Universal Adult Franchise; fixed no (1) Anglo-Indian

[Art.172]:

Term of LA

- 5 years from date of FIRST meeting
- During 5 years if emergency is in operation-extension by Parliament not exceeding one year at a time in any case not extending beyond by six months from end of emergency

Qualifications:

- Citizen of India:
- 25 years of age
- Such Qualification as may be prescribed by Parliament by law.

Sessions:

At least twice a year —interval not more than six months

Quorum

1/10th of total membership of the House—for transacting

Powers and Functions of LA

1. make laws on any subjects in State List

2. Can make laws on any subjects in Concurrence List. Should not conflict with law already made by Parliament.
3. Control over council of ministers-asking questions, passing no confidence motion etc.,
4. Controls Finance of Govt.
 - has exclusive powers to pass money bills.
5. Elects its own Speaker & Dty Speaker
 - Remove them by a majority of members of LA

The Speaker and The Deputy Speaker

- Neutral from party politics
- Command respect of the groups.

The Features of High Office

- Dignity
- Independence
- Impartiality

Powers of Speaker of the LA

1. Presiding Officer- conducts the House in an orderly manner and regulates the proceedings.
2. Casting Vote
3. Allotment of time to each agenda.
4. Admits all the resolutions for discussion & decides on adjournment
5. Instructs the Govt. to table the documents
6. Authenticates the Bills passed by the House by his signature & passes it for Governor's assent
7. Custodian of RIGHTS & Privileges of LA

8. Issue summons to appear before the House on charges of Contempt or breach of Privileges of the House.
9. Money Bill or not- decides. Decision is Final
10. Accepts resignation of members
11. All committees of LA are Constituted by him or the House & He appoints & directs Chairmen of these committees
12. Facilitator
13. Regulates admission to Gallery.
14. Lays guidelines for recognition of Legislative Parties & their Leaders in the House.
15. Exclusive Power to decide on the dis-qualification of a member –ground of defection.
16. Arrest, imprisonment, sentence under a criminal charge or by a executive order,the fact must be immediately reported to the Speaker.

Vacancy

- Cease to be a member of Assembly, 2. Resigns
- Removed by majority resolution
- 14 days Notice before passing resolution

[Art.171]:

Composition of Legislative Council (LC)

- Not more than 1/3rd the members of LA of the State
- Not less than 40 members unless Parliament provides by Law.
- Until such law by the Parliament

[Art.171]clause c provides for

- a) 1/3rd elected by electorate of Municipalities, District Boards & local authorities specified by Law
- b) 1/12th graduates of any university in territory of India - 3 yrs Residence in state.
- c) 1/4th Teachers Constitution -3yrs-not below secondary school – equivalent by law-Parliament

d) 1/3rd non LA members-elected by LA members.

e) Remaining nominated by Governor Literature, Art, Science, Social Service, co-op movement

Term of Legislative Council (LC)

- Permanent body – not subject to dissolution
- 1/3rd members retire every 2 years after completion of 6 years term.

Qualifications of members of Legislative Council

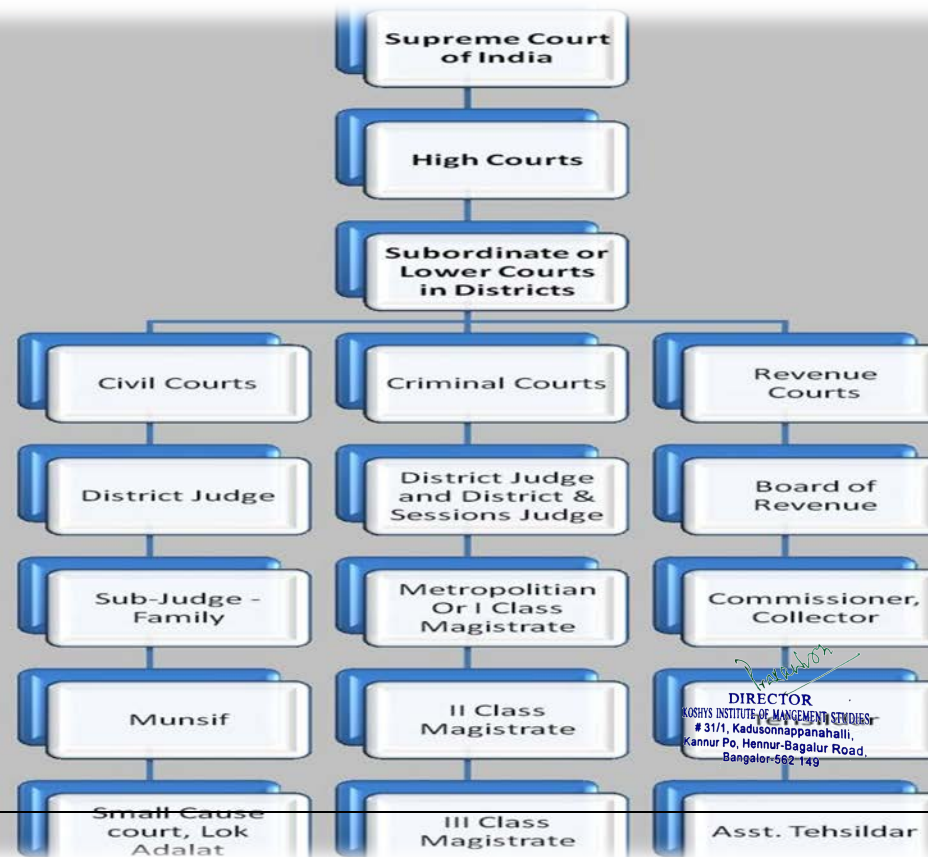
- Citizen of India
- 30 years of age
- Possesses such Qualification as may be prescribed by Parliament by law.

Chairman & deputy

- elected by
- removed by existing time of

JUDICIARY OF INDIA

The Judiciary of India is an separate from the Executive Indian Government. The stratified into various Supreme Court, which is the state level, District Lok Adalats at the Village judiciary of India takes care order in the country along



chairman (Presiding officers)

its own members resolution by a majority of members in the council at the passing the resolution.

independent body and is and Legislative bodies of the judicial system of India is levels. At the apex is the followed by High Courts at Courts at the district level and and Panchayat Level. The of maintenance of law and with solving problems related

to civil and criminal offences. The judiciary system that is followed in India is based on the British Legal System that was prevalent in the country during pre-independence era. Very few amendments have been made in the judicial system of the country.

JUDICIARY

The Supreme Court of India comprises the Chief Justice and not more than 30 other Judges appointed by the President of India.

Qualifications

- A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of India and
- has been for a least 5 years a judge of a High Court or of two or more such Courts in succession or
- has been for at least 10 years an advocate of a High Court or of two or more such courts in succession-or

- is in the opinion of the President, a distinguished jurist. All appointee in general case can hold office till 65 years of age.
 - or she/he must be, in the opinion of the President, a distinguished jurist.
- The Judges of the Supreme Court (and the High Courts) are appointed by the President (of India) after ‘consulting’ the Chief Justice of India (CJI).
 - Normally, the senior-most judge of the Supreme Court of India is appointed as the Chief Justice of India (CJI).
 - A judge of the Supreme Court (or High Courts) can be removed only on the ground of proven misbehavior or incapacity.
 - A motion containing the charges against the judge must be approved by special majority in both the Houses of Parliament; only then a judge can be removed.
 - The Supreme Court has got jurisdiction to take up any dispute such as –
 - Between citizens of the country;
 - Between citizens and government;
 - Between two or more state governments; and
 - Between governments at the union and state level.
 - The Supreme Court and the High Courts are the custodian of our constitution. They have the power to interpret the Constitution of the country.
 - The Supreme Court can declare any law of the legislature or the actions of the executive unconstitutional if such a law or action is against the provisions of the Constitution.
 - The Supreme Court has ‘**Original Jurisdiction**’. It means – some cases can be directly considered by the Supreme Court without going to the lower courts.

- The Supreme Court has '**Writ Jurisdiction**'. It means - any individual, whose fundamental right has been violated, can directly go to the Supreme Court for appropriate remedy.
- The Supreme Court is the highest court of appeal (**Appellate Jurisdiction**). It means - a person can appeal to the Supreme Court against the decisions of the High Court.
- The Supreme Court has '**Advisory Jurisdiction**'. It means - the President of India can refer any matter that is of public importance or involves interpretation of Constitution to Supreme Court for advice.
- Article of 137 of the Constitution states that the Supreme Court shall have the power to review any judgment pronounced or order made by it.
- Article 144 of the Constitution states that all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.
- The chief instrument through which judicial activism has come into existence in India is **Public Interest Litigation (PIL)** or Social Action Litigation (SAL).
- When a case is filed not by aggrieved people, but rather on their behalf, someone else, as it involves a consideration of an issue of public interest, hence, it is known as Public Interest Litigation (PIL) or Social Action Litigation (SAL).

The Supreme Court

The Indian Judicial System has the Supreme Court of India at its helm, which at present is located only in the capital city of Delhi, without any benches in any part of the nation, and is presided by the Chief Justice of India.

The Supreme Court of India has many Benches for the litigation, and this apex court is not only the final court of permissible Appeal, but also deals with interstate matters, and matters comprising of more than one state, and the matters between the Union Government and any one or more states, as the matters on its original side. The President of India can always seek consultation and guidance including the opinion of the apex court and its judges. This court also has powers to punish anybody for its own contempt.

The largest bench of the Supreme Court of India is called the Constitution Bench and comprises of 5 or 7 judges, depending on the importance attached of the matters before it, as well as the work load of the court

The High Court

The High Courts are also termed as the courts of equity, and can be approached in writs not only for violation of fundamental rights under the provisions of Article 32 of the Indian constitution, but also for any other rights under Article 226 of the Constitution, and under its powers to supervise over all its subordinate courts falling within the physical jurisdiction of the same under Article 227 of the Constitution. In fact, when apparently there is no effective remedy available to a person in equity, it can always move the High Court in an appropriate writ. • High Courts frame their own rules, and arrange to implement them but under certain provisions of Law, the High Courts have the ordinary original civil jurisdiction. • Many times the High Courts have concurrent jurisdiction along with its subordinate courts, for effective remedy at the earliest.

All the High Courts have different division benches in different parts of the respective states for speedier cheaper and effective dispensing of justice. Every State has a High Court, which works under the direct guidance and supervision of the Supreme Court of India, and is the uppermost court in that state, and generally the last court of regular appeals.

District Courts

The highest court in each district is that of the District and Sessions Judge. This is the principal court of original civil jurisdiction besides High Court of the State and which derives its jurisdiction in civil matters primarily from the code of civil procedure. The district court is also a court of Sessions when it exercises its jurisdiction on criminal matters under Code of Criminal procedure. The district court is presided over by one District Judge appointed by the state Government. In addition to the district judge there may be number of Additional District Judges and Assistant District Judges depending on the workload. However, the district judge has supervisory control over Additional and Assistant District Judges, including decisions on allocation of work among them. The District and Sessions judge is often referred to as "district judge" when he presides over civil matters and "sessions judge" when he presides over criminal matters.

The district judge is also called "Metropolitan session judge" when he is presiding over a district court in a city which is designated "Metropolitan area" by the state Government. Other courts subordinated to district court in the Metropolitan area are also referred to with "metropolitan" prefixed to the usual designation. An area is designated a metropolitan area by the concerned state Government if population of the area exceeds one million.

Appointment of district judge and other Additional and Assistant district judges is done by the state Government in consultation with the High court of the state.

The Subordinate Courts

- This subordinate Courts are:
 - (a) District Courts, empowered to hear appeals from courts of original civil jurisdiction besides having original civil jurisdiction
 - (b) Sessions Court is courts of criminal jurisdiction, having the similar scope of powers.

- The courts of specific original jurisdiction are courts of Civil Judges, of Judicial Magistrates; Small Causes courts & Courts of Metropolitan Magistrates.

Norberto Bobbio stated that we now live in an age of rights. A right is a multi-dimensional dynamic concept, embracing almost all areas of life like social, cultural economic and political fields. According to Prof. H.J. Laski, "Rights are those conditions of social life, without which, no man can be his best self". Prof Green defines "a right as a power, claimed and recognized as contributory to common good".

Human rights are referred as a fundamental rights, basic rights, inherent right, natural rights and birth rights. Human rights are rights of exceptional importance and belong to every individual by virtue of being a human. These rights are necessary to ensure the dignity of every person as a human being irrespective of race, religion, language, caste, sex or any other reason. The concept of Human right is based on the notion of equality of human being.

The features of human rights are they are universal incontrovertible and subjective. Human rights are universal means they belong to each of us regardless of ethnicity, race, gender, sexuality, age, religion, political conviction or type of government. They are incontrovertible means they are absolute and innate. Human rights are subjective means they are properties of individual subjects who possess them because of their capacity of rationality, agency and autonomy. The notion of universality has been criticized for its blindness towards the issues of cultural differences. When human rights are guaranteed by a written constitution they are known as fundamental rights because a written constitution is the fundamental law of the state

BASIC HUMAN RIGHTS ARE

The right to life

The right to liberty and freedom

The right to the pursuit of happiness

The right to live your life free of discrimination

The right to control what happens to your own body and to make medical decisions for yourself

The right to freely exercise your religion and practice your religious beliefs without fear of being prosecuted for your beliefs

The right to be free from prejudice on the basis of race, gender, national origin, color, age or sex

The right to grow old

The right to a fair trial and due process of the law

The right to be free from cruel and unusual punishment

The right to be free from torture

The right to be free from slavery

The right to freedom of speech

The right to freely associate with whomever you like and to join groups of which you'd like to be a part.

The right to freedom of thought

The right not to be prosecuted from your thoughts

CHARACTERISTICS

1. Human rights represent claims which individual or groups make on the society.
2. These rights are inalienable and human beings are entitled to them by birth.
3. These rights are the basic minimum requirement for survival of human beings in society.
4. It is universal in character but not absolute.
5. It is protected and enforced by the authority of the state.
6. These rights are meant to uphold human dignity.
7. These rights are essential and necessary for the development of the people.
8. It is irrevocable and equal to all
9. These rights are natural rights based on the law of nature.
10. Human rights are dynamic and evolutionary in nature.

SCOPE

1. Sensitizing the administration machinery and Judiciary
2. Role of Public Interest Litigation
3. Role of NGO & HRO
4. Involvement of Government and Policy makers
5. Awareness through mass media
6. International Covenants, agreements and declarations
7. Growth and expansion of various movements

DEVELOPMENT OF HUMAN RIGHTS

The human rights which we are enjoying today is developed through various stages. The important landmarks in the development of human rights are the following documents and struggles:

1. Magna Carta of 1215
2. Influence of Social Contract Theory
3. English Bill of Rights of 1689
4. American Declaration of Independence of 1776
5. American Bill of Rights of 1791

6. French Declaration of the Rights of Man of 1789
7. The Bolshevik Revolution of Russia of 1917
8. Universal Declaration of Human Rights of 1948
9. International Covenants on Human rights.

CLASSIFICATION OF HUMAN RIGHTS

Human rights are generally classified into first, second and third generation rights. Human rights have evolved and developed as a reaction to oppressive institutions, policies and practices of the rulers. These are the first generation rights. The second and third generation rights are concerned to be responses to the economic and political oppression that was the by-product of colonialism and industrial capitalism. Karel Vasek, a former director of Human Rights and Peace Division of the UNESCO was the major proponent of the classification of rights in to three generations. He stated that civil and political rights constitute the first generation rights. Social, economic and cultural rights constitute the second generation rights .The group rights, such as the right to development and environment al rights formed the third generation of rights. The first generation rights i.e. civil and political rights provide for certain basic rights guarantees for an individual in relation to state; they involve the inviolability of the individual against any invasive action by the state. These are distinct from second generation rights, which generally require action by the state to provide certain basic needs or amenities to the individual. In other words civil and political rights demand freedom from coercive action by the state against an individual; while economic, social and cultural rights necessitate certain actions and provisions by the state in order for it to fulfill its obligations. First generation rights are included in the Articles 3to 21 of the UDHR while Article 22to27 deal with second generation rights.

Demands have come from some developing countries to focus on some group rights, as it is claimed that their societies are less individualistic than western countries. Consequently third generation rights have been developed to provide for the relation between individuals, the collectivity and the state. Third generation Rights include: the right to self-determination, right to development, right to participate in and benefit from the common heritage of mankind ;and the right to a healthy environment ;amongst many other collective rights.

Civil and political rights cannot be enjoyed in the absence of basic social economic and cultural rights .The interdependence of the rights must be acknowledged and provided for so as to ensure a better life. In short we can say that first generation rights are related to liberty; second generation rights to equality; and third generation rights are related to fraternity.

United Nations and Human Rights

The creation of UN was a sincere step to draw the nations together in proximity so that they develop a bond and a desire to live together. The charter of the UN recognized the inherent dignity of man. The Universal Declaration of Human Rights recognized that all human beings are endowed with inalienable rights. To convert the declaration into binding treaty, two covenants were prepared by the UN. They are the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. There were also optional protocols in connected with the covenant. There are two optional protocols to the ICCCR and one optional protocol on ICESCR.

The Charter of the United Nations, gives due importance to the aim of promoting human rights and fundamental freedoms. One of the five declared purposes of the UN is the achievement of international cooperation in promoting and ensuring respect for human rights. Several articles in the Charter deal with the subject. For instance, Article 55, 56 require the United Nations to promote a high standard of living, full employment to create conditions of economic and social progress and development, promotion of universal respect for observation of human rights and fundamental freedoms. Further Article 62 of the Charter provides for setting up of several commissions, including one for the promotion of human rights. Accordingly, the commission of Human Rights was duly constituted under the chairmanship of Mrs. Eleanor Roosevelt. The Commission on Human rights is the main policy making body to deal with human rights. The concept of human rights can be traced from ancient Greece and Rome.

The concept of human right is very old and based on natural law. However the expression 'Human Right' is relatively new, having come into everyday parlance only since world war second. That is after the founding of the United Nations in 1945 and the UDHR in 1948.

Although at the end of the First World War, some attempts on modest level were made through the Treaty of Versailles and Paris Peace Conference, to promote and universalize the human rights, but it met with no success. The formation of the International Labour Organization is the result of Treaty of Versailles. Under the League of Nations the ILO and the Permanent Court of International justice did something to promote the human rights although the League did not contain the word human rights in its covenant.

In 1929, Institute of International law adopted a declaration of the International Rights of Man, which recognizes the rights of life, liberty and prosperity irrespective of nationality, sex, race, language or religion. During the Second World War many conferences were convened in the various sides of the world to make international organization for the promotion of Peace and the recognition and the protection of the human rights. It was mainly for the universalization of the human rights and against the oppressive and brutal practices adopted by Nazi regime in Germany. It was believed that permanent peace could be established without securing international safeguards for human rights and fundamental freedom. In 1941, ~~Janney~~ ^{Franklin D. Roosevelt} in his message to congress he referred to the four

essential human freedom to which he looked forward as the foundation of a future world. They are:-1. Freedom of speech and expression 2. Freedom of worship, 3. Freedom from want, 4. Freedom from fear

THE ATLANTIC CHARTER

The freedom concept of the then American president Roosevelt reached in to some more concrete form in the Atlantic charter. The then president of the United States Franklin D. Roosevelt and the Prime Minister of Britain Winston Churchill met at the Atlantic sea in a ship and discussed about the future world and issued a joint declaration on August 1941. It is known as the Atlantic Charter. It was agreed among other things that “they respect the right of all people to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcefully deprived of them”

After the final destruction of the Nazi tyranny, “they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all men in all the lands may live out their lives in freedom from fear and freedom from wants”.

Another important landmark was the UN declaration in January 1, 1942.

The UN declaration clearly mentioned that “complete victory over their enemies was essential to defend life, liberty, independence, religious freedom and to preserve human rights and justice in their own land as well as other land”. This declaration was further supported by USA, USSR AND Britain in their conference on March, 1943 and again by ILO in its Philadelphia declaration. In 1945, at Yalta the great powers again issued a declaration supporting UN declaration of 1942, Jan 1. At San Francisco Conference of United Nations in 1945, the charter included provisions of the human rights for the first time.

The UNO came into existence on 24th October 1945. The purpose of the United Nations is to bring all nations of the world together to work for peace and development, based on the principles of justice, human dignity and the wellbeing of the people. In the preamble of the charter it is stated that it “reaffirm faith in fundamental human rights, in the dignity and worth of human person, in the equal rights of man and women and of nations large and small”

The purpose of the UN was declared in article 1 of the Charter. It says “.....promoting and encouraging respect for human rights and for fundamental freedom for all without distinction as to race, sex, language or religion”. In furtherance of this objective of securing human rights the UN General Assembly adopted the Universal Declaration of Human Rights on 10th December 1948. It set up a Global standard for human rights that every state should grant to men and women all over the world.

INTERNATIONAL BILL OF RIGHTS

The International Bill of Human Rights is an informal name given to one General Assembly resolution and two international treaties established by the United Nations. It consists of the Universal Declaration of Human Rights (adopted in 1948), the International Covenant on Civil and Political Rights (1966) with its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights (1966). The two covenants entered into force in 1976, after a sufficient number of countries had ratified them.

In the beginning, different views were expressed about the form the bill of rights should take. In 1948, General Assembly planned the bill to include UDHR, one Covenant and measures of implementation. The Drafting Committee decided to prepare two documents: one in the form of a declaration, which would set forth general principles or standards of human rights; the other in the form of a convention, which would define specific rights and their limitations.

Accordingly, the Committee transmitted to the Commission on Human Rights draft articles of an international declaration and an international convention on human rights.

At its second session, in December 1947, the Commission decided to apply the term "International Bill of Human Rights" to the series of documents in preparation and established three working groups: one on the declaration, one on the convention (which it renamed "covenant") and one on implementation. The Commission revised the draft declaration at its third session, in May/June 1948, taking into consideration comments received from Governments. It did not have time, however, to consider the covenant or the question of implementation.

The declaration was therefore submitted through the United Nations Economic and Social Council to the General Assembly, meeting in Paris.

The General Assembly adopted the Universal Declaration of Human Rights (UDHR) on 10th December 1948, which included the civil, political, economic, social and cultural rights. Subsequently, in 1966 the Assembly adopted two covenants, that is ICCPR and ICESCR. Later Assembly passed optional protocols to these two Covenants. The UDHR and the two Covenants and the Optional Protocol are popularly known as the International Bill of Rights.

UNIVERSAL DECLARATION OF THE HUMAN RIGHTS

The Vienna declaration, a programme of action, the end result of the 1993 World conference of Human Rights asserted that "All human rights are universal, indivisible, interdependent and interrelated". The declaration stated that human rights and fundamental freedoms would have to be respected and promoted by all states irrespective of their political, economic and cultural systems.

In 1946, the United Nations established a commission on human rights which started the work on an international bill of rights –consisting of a universal declaration of human rights and the two covenants and protocols. In the first stage of this programme, during 1946-1948, drafted and recommend to the General Assembly, the Universal Declaration of Human Rights which was

unanimously adopted by it on 10th December 1948. The declaration was proclaimed "as a common standard of achievement for all peoples and all nations" (even those which were not UN members) and was accepted as a unanimous interpretation of the Charter by the most authoritative UN organ, the General Assembly. It catalogued almost all important rights, civil and political and economic, social and cultural rights-which were not defined in the year charter.

Though it is a non-binding instrument, it has acquired moral and legal status. It is recognized in international law as customary law. The preamble of the declaration pointed out its significant feature. It states that the individual, not the state or the government, is "the foundation of freedom, justice and peace in the world".

The universal declaration inspired three regional human rights commissions.

The council of Europe adopted a European Convention on Human Rights in 1950 by which it established the European commission and Court of Human Rights.

In 1969, the Organization of American States adopted a similar convention of human rights and the Organization of African Unity (now African Union) adopted in 1981, the African charter on human and people's rights. The declaration has been translated into nearly 360 local and regional languages. The declaration is the best known and the most cited human rights document in the world.

The universal on human rights stands as a common standard of achievement where all people's or all nations, to the end that every individual and every organ of society keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and the freedom and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member states themselves and among the peoples of territories under their jurisdiction.

The Universal Declaration of Human Rights consists of a Preamble and 30 articles. The declaration set forth the human rights and fundamental freedom to which all men and women without distinction everywhere in the world are entitled. Article 1 of UDHR, lays down the philosophy upon which the declaration is based. It reads "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood".

The Universal Declaration was adopted by the UN General Assembly on 10th December 1948. The adoption of such a declaration was an historic event and one of the greatest achievements of the UN. Now the people all over the world celebrate the human right day on every year the 10th December.

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed

their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms, Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Significance of the declaration-A brief analysis

The Universal Declaration has received praise from a number of notable people. Charles Malik, Lebanese philosopher and diplomat, called it "an international document of the first order of importance," while Eleanor Roosevelt, first chairwoman of the Commission on Human Rights (CHR) that drafted the Declaration, stated that it "may well become the international Magna Carta of all men everywhere." 10 December 1948. In a speech on 5 October 1995, Pope John Paul II called the UDHR "one of the highest expressions of the human conscience of our time". And in a statement on 10 December 2003 on behalf of the European Union, Marcello Spatafora said that "it placed human rights at the center of the framework of principles and obligations shaping relations within the international community." John P. Humphrey observes: "No other act of the United Nations has had the same impact on the thinking of our times, the best aspirations of which it incorporates and proclaims. It may well be that it will live in history chiefly as a statement of great moral principle. As such it influence in deep and more lasting than of any political document or legal instrument". UDHR is one of the largest translated documents in the world

1. The Declaration of human Right was the first of its kind in the history of International organization.
2. The declaration became one of the most remarkable developments in the law of nations
3. The declaration acquired a political and moral authority.
4. The declaration has exercised profound influence on the constitution of new nations and regional agreements
5. The Indian constitution was also greatly influenced by the UDHR

1. UNESCO

United Nations Educational, Scientific and Cultural Organization was recognized as an agency of the United Nations by virtue of an agreement of December 14, 1946. Its constitution was initially drafted by the Great Britain and France and later adopted by 43 members of the UN.

Functions:-

Article 1 of the constitution of UNESCO lays down the functions of the organization. It states that UNESCO shall contribute to peace and security by promoting collaboration among the nations through education science and culture in order to universal respect for justice for the rule of law and for the human rights and fundamental freedoms which are affirmed by the people of the world, without distinction of race, sex, language or religion by the charter of the United Nations.

It has mainly three functions 1 .Educational functions 2. Research and Training in basic sciences 3. Social and cultural development. UNESCO has played an active part in disseminating knowledge about the Universal Declaration of Human Rights through exhibitions and other methods

2. ILO

The International Labour Organization was formed on April 11, 1919. It was dedicated to improving living and working conditions of workers throughout the world. During the inter-war period it conducted thousands of studies, held hundreds of conferences and adopted conventions for reduction of working hours, holidays with pay, sickness and old age insurance, freedom of association, forbidding night work for women and their employment in mines. In 1946 ILO became the first specialized agency of the United Nations.

Functions:- The major functions of the ILO are:- 1. Raising the standard of the workers. 2. Prevention of unemployment. 3. Provision for social security. 4. Improvement in the working conditions of the merchant sailors. 5. Right of Organization. 6. Safety regulation. 7. Women welfare 8. Welfare of children 9. Technical assistance 10. Improvement of the working conditions of the agricultural labour, 11. Promotion of the co-operatives 12. Research and education.

3. WHO

An international health conference held in June 1946, set up WHO which came into existence in September 1946. The basic purpose of WHO is the attainment of all peoples of the world the highest possible level of health. WHO defined health as "a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity". Health is the fundamental right of every human being and is considered necessary for the attainment of peace and security. Geneva is the headquarters of the WHO.

Functions:- The followings are the main functions of the WHO. 1. Preventing the spread of disease and confining it within the boundaries of the state. 2. Curing the disease after it has spread. 3. Preventing the diseases, 4. Establishment of an environment promoting good health.

4. FAO

The Food and Agricultural Organization was formed in 1945 to promote international co-operation in the economic and social field. It tries to find out means for developing and maintaining adequate food supply by encouraging use of modern tools and methods, conserving existing food supplies, searching for new sources etc.

Functions:- It has international functions, technical functions, combating various animal and plant diseases, increase of production, check on children's diseases, educational and informational activities.

5. UNICEF

The United Nations International Children's Emergency Fund (UNICEF) was formed in December 1956.

Functions:-

The fund was placed a ferment footing in 1953. Its activities were also expanded to include emergency aid in areas affected by flood, droughts, wars and other disasters. The UNICEF is a trustee between the donor and the beneficiaries. It gives aids to the needy members without any discrimination. It provides supplementary meals for millions of children.

National Human Rights Commission of India

The Rights Commission (NHRC) of India is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA). The NHRC is the national human rights institution, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

"Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by courts in India. "Commission" means the National Human Rights Commission constituted under section of All human beings are born free and equal in dignity and rights known as Human rights, as commonly understood, are the rights that every human being is entitled to enjoy freely irrespective of his religion, race, caste, sex and nationality, etc. (Jagdish chand, 2007) In Declaration of Independence acknowledged the fundamental human rights. Human right means different thing to different people. Human Rights are not static. New rights are recognized and enforced from time to time. Only persons fully conversant with the latest development about the expanding horizons of Human Rights can promote their awareness better than others.

FUNCTIONS

TPHRA mandates the NHRC to perform the following functions:

- Proactively or reactively inquire into violations of human rights or negligence in the prevention of such violation by a public servant
- by leave of the court, to intervene in court proceeding relating to human rights
- to visit any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates and make recommendations
- review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation
- review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures

- to study treaties and other international instruments on human rights and make recommendations for their effective implementation
- undertake and promote research in the field of human rights
- engage in human rights education among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means
- encourage the efforts of NGOs and institutions working in the field of human rights
- such other function as it may consider it necessary for the protection of human rights.

POWERS AND FUNCTIONS:

The NHRC has the following functions:

1. To investigate complaints regarding the violation of human rights either suo moto or after receiving a petition.
2. To investigate the failure of duties on the part of any public official in preventing the violation of human rights.
3. To intervene in any judicial proceedings involving any allegation of violation of human rights.
4. To visit any jail or any other institution under the control of the State Government to see the living conditions of the inmates and to make recommendations thereon.
5. To review the safeguards provided under the constitution or any law for the protection of the human rights and to recommend appropriate remedial measures.
6. To study treaties and other international instruments on human rights and to make recommendations for their effective implementation.
7. To undertake and promote research in the field of human rights.
8. To encourage the efforts of the non-governmental organisations working in the field of human rights.
9. To spread human rights literacy among various sections of society and to promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other means.

10. To review all facts related to the activities of the terrorists which obstruct the way of the protection of human rights and to make recommendations for their effective implementation.

While making an inquiry into the complaints submitted to it, the commission enjoys the powers of a civil court. It can recommend to both the central and state governments to take appropriate steps to prevent the violation of Human Rights. It submits its annual report to the President of India who causes it to be laid before each House of Parliament.

It usually sends a copy of the inquiry report to the petitioner and also to the concerned government. The government may be asked to inform it about the action taken or proposed to be taken on the concerned complaints.

The Protection of Human Rights Act, 1993, empowered the State Governments to set up their own commission for such a purpose. The chairman and the members of such State Commission are appointed by the Governor in consultation with the Chief Minister, Home Minister, Speaker and Leader of the Opposition in the State Legislative Assembly.

ROLE:

Though the establishment of the National Human Rights Commission is a bold step, yet sometimes it fails to discharge its duties effectively and efficiently. It does not have any machinery of investigation. It always depends on the staff of the central and state governments. So its investigation sometimes fails to be impartial.

In most cases, it asks the concerned Central and State Governments to investigate the cases of the violation of Human Rights. It also approaches the Supreme Court and the High Courts to provide judicial relief to the victims. Soli J. Sorabjee criticized it as “India’s teasing illusion” due to its incapacity to render any practical relief to the aggrieved party.

On the issue of the violation of Human Rights, India is unnecessarily dragged to controversy. As a sovereign state, when it takes action against all disintegrating forces, the issue of Human Rights violation is raised. The maintenance of a proper balance between these two facts is the highest need of the time. The National Human Rights Commission, so far in India has successfully demonstrated its willingness to act as an effective organisation in the protection of Human Rights.

Investigation team of the Commission

Commission has its own investigating staff headed by a Director Investigation for investigation into complaints of human rights violations. Under the Act, it is open for the Commission to utilize the services of any officer or investigation agency of the State Government.

Autonomy of the Commission

The autonomy of the Commission derives, inter-alia, from the method of appointment of its Chairperson and Members, their fixity of tenure, and statutory guarantees thereto, the status they have been accorded and the manner in which the staff responsible to the Commission including its investigative agency - will be appointed and conduct themselves. The financial autonomy of the Commission is spelt out in Section 32 of the Act.

The Chairperson and Member of the Commission are appointed by the Governor on the basis of recommendations of a Committee comprising the Chief Minister as the Chairperson, the Home Minister, the speaker of the Assembly and the Leader of Opposition in the Assembly as members.

Procedure for inquiry into complaints

Commission while inquiring into complaints of violations of human rights may call for information or report from the State Government or any organization subordinate thereto, within such time as may be specified by it; provided if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own; on the other hand, if, on receipt of information the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

Steps open to the Commission after inquiry

Commission may take any of the following steps upon the completion of an inquiry :

Where the inquiry discloses commission of violation of human right or negligence in the prevention of violation of human rights by a public servant, it may recommend to concerned Government or authority the initiation or proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons.

Approach the High Court concerned for such directions, orders or writs as that Court may deem necessary.


Recommend to the concerned Government or authority for the grant of such immediate necessary relief to the victim or the members of his family as the Commission may consider.

Language of the complaint

They may be in English or Hindi. The complaints are expected to be self-contained. No fee is charged on complaints. The Commission may ask for further information and affidavits to be filed in support of allegation wherever considered necessary. The Commission may in its discretion, complaints conveyed through FAX or by e-mail. Complaints can also be made on mobile telephone number or registered through online form available in the website of the Commission.

Kind of Complaints not entertained by the Commission

Ordinarily complaints of the following nature are not entertained by the Commission :


DIRECTOR
KOSHS INSTITUTE OF MANAGEMENT STUDIES
31/1, Kadusonappanahalli,
Kannur Po, Hennur-Bagalur Road,
Bangalore-562 149

In regard to events which happened more than one year before the making of the complaints.

With regard to matters which are sub-judice.

Which are vague, anonymous or pseudonymous.

Which are of frivolous nature.

Which pertain to service matters.

Responsibility of the authority/State/Governments to which reports/ recommendations have been sent by the Commission.

The authority/State Government has to indicate its comment/action taken on the report / recommendations of the Commission within a period of one month in respect of general complaints. Issues on which complaints have been received since its inception, the Commission has handled a variety of types of complaints.

Lately the major types of complaints have been:

- In respect of police administration
- Failure in taking action
- Unlawful detention
- False implication
- Custodial violence
- Illegal arrest
- Other police excesses
- Custodial deaths
- Encounter deaths
- Harassment of prisoners; jail conditions
- Atrocities on SCs and STs
- Bonded labour, child labour
- Sexual harassment and indignity to women, exploitation of women
- Numerous other complaints which cannot be categorized, have also been taken by us
- Focus of the Commission's Working

Inquiring into complaints is one of the major activities of the Commission. In several instances individual complaints have led the Commission to the generic issues involved in violation of rights and enabled it to move the concerned authorities for systemic improvements. However, the Commission also actively seeks out issues in human rights which are of significance either suo-motu, or when brought to its notice by the civil society, the media, concerned citizens, expert advisers. Its focus is to strengthen the extension of human rights to all sections of society in particular, the vulnerable groups.

State Human Rights Commission

The Protection of Human Rights Act of 1993 provides for the creation of State Human Rights Commission at the state level. A State Human Rights Commission can inquire into violation of human rights related to subjects covered under state list and concurrent list in the seventh schedule of the Indian constitution

FUNCTIONS OF THE COMMISSION:

According to the protection of Human Rights Act, 1993; below are the functions of State Human Rights Commission:

- (a) Inquire suo motu or on a petition presented to it, by a victim, or any person on his behalf into complaint of violation of human rights or negligence in the prevention of such violation by a public servant.
- (b) Intervene in any proceeding involving any allegation of violation of human rights before a Court with the approval of such Court.
- (c) Visit any jail or any other institution under the control of the State Government where persons are detained to study the living conditions of the inmates and make recommendations thereon
- (d) Review the safeguards provided by or under the constitution of any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- (e) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- (f) Undertake and promote research in the field of human rights.
- (g) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights.
- (h) Encourage the efforts of Non-Governmental organizations and institutions working in the field of human rights.
- (j) Undertake such other functions as it may consider necessary for the promotion of human rights.

Working of the Commission

- The commission is vested with the power to regulate its own procedure.
- It has all the powers of a civil court and its proceedings have a judicial character.
- It may call for information or report from the state government or any other authority subordinate thereto.

It has the power to require any person subject to any privilege which may be claimed under any law for the time being in force, to furnish information on points or matters useful for, or relevant to the subject matter of inquiry. The commission can look into a matter within one year of its occurrence.

Criticism:

State Human Rights Commission has limited powers and its functions are just advisory in nature. The commission does not have power to punish the violators of human rights. It cannot even award any relief including monetary relief to the victim.

The recommendations of State Human Rights Commission are not binding on the state government or authority, but it should be informed about the action taken on its recommendation within one month.

Conclusion

There is a requirement to increase the powers of the State Human Rights Commission. This could be increased in various ways in delivering justice to the victims. The commission should be empowered to provide interim and immediate relief including monetary relief to the victim. The commission should also be authorized to punish the violators of the human rights, which may act as deterrent to such acts in the future. The interference of state government in the working of commission should be minimum, as it may influence the working of commission

Indian Judiciary and Human Rights

Indian Judiciary is able to protect the human rights and prevents the executive and legislative branches from violating their area of jurisdiction because of several features of Indian constitution. They are the followings:-

1. Separation of Powers

There is an independent judiciary in India and it is fully separated from the legislature and the executive. Therefore the judiciary is able to provide justice without fear and favour.

2. Written constitution

India has a system of written constitutional law. It increases the success of judiciary to identify the mistakes on the part of the executive and legislature. Each and every provision of the fundamental rights is also described in the constitution. Therefore the judiciary is able to read every law preferably that related to the rights of the citizens.

3. Rule of law

Indian constitution guarantees rule of law to every citizens. It provides equality of law among equals and equal protection of law. It ensures that the judiciary can protect the human rights of the citizens based on the principle of rule of law.

4. Integrity and freedom of judiciary

Indian constitution ensures the freedom and integrity of the judiciary. The judges of the Supreme Court and the High Courts cannot be removed at the whims and fancies of the executive.

6. Social representation

If the judiciary is socially representing the population, it is helpful on two reasons. It ensure the impartiality of the judges. It also help the judge to be patient to listen to the human rights concerns of the different sections of the population. For example women, dalits, minorities etc.

7. Training and educational background of judges.

The values and principles of the education system which gives training to the aspirant judges helps a lot to increase the professional quality to deal with human right cases.

8. Judicial activism

The judiciary's human right consciousness has been changed along with the change of judiciary from a passivist to an activist. During the initial stages, the judiciary in India was followed the black letter of law tradition or it was passivist in character. This image of the court was changed with the emergence of Public Interest Litigation and the judicial activism. The judicial activism helped too much to the people to enjoy their rights.

WRIT PETITION

The Supreme Court under article 32 and the High Court under article 226 have the power to issue certain writs for the enforcement of the fundamental rights to any person or authority or the government within its territorial jurisdiction. There are five kinds of writs. They are Habeas Corpus, Mandamus, Cerciorary, Quo-Warranto and Prohibition

PUBLIC INTEREST LITIGATION

Public Interest Litigation (PIL) stands for litigation in the interest of the public. It emerged as a by-product of the influence of welfare ideology on the judiciary. The traditional legal theory of judicial process envisaged passive role for the courts. The traditional legal theory demands for a neutral or passive judiciary which follows the black letters of law. Therefore the procedures in the judicial process were not at all liberal. PIL stands for the liberalization of the procedure in judicial process

especially the provision of locus standi. Locus standi means, a person must show that he is adversely effected by the impugned action or that his own right has been violated . Further the issue he raises must be a justifiable issue that can be resolved through judicial process. The liberalization of the provision of locus standi empowers a person to approach the court for addressing injustice in which he may not be a party or victim. This gives power to the people to approach the court for the protection of the right of the vulnerable or marginalized who are not in a position to argue for the rights. It can also be used the general welfare of the public. In short PIL empower the courts to act in favour of the social cause.

ACTS ON HUMAN RIGHTS

RIGHT TO INFORMATION ACT

It was one of the most important legislation passed by the Indian parliament in 2005. It is considered important to the people's participation and

empowerment in democracy. Today right to information is a basic right of the people. The Scandinavian countries are perhaps the early ones to ensure free flow of information to the people through statutory provisions. The Right to Information Act (RTI) is an Act of the Parliament of India "to provide for setting out the practical regime of right to information for citizens" and replaces the erstwhile Freedom of Information Act, 2002. The Act applies to all States and Union Territories of India except the State of Jammu and Kashmir. Jammu and Kashmir has its own act called Jammu & Kashmir Right to Information Act, 2009. Under the provisions of the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to pro-actively publish certain categories of information so that the citizens need minimum recourse to request for information formally.

This law was passed by Parliament on 15 June 2005 and came fully into force on 13 October 2005. Information disclosure in India was hitherto restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. The Act has increased transparency and greater accountability in the functioning of the government and hence played a significant role in exposing and reducing corruption to some extent. It is claimed to promote a "citizen-centric approach to development" and to increase the efficiency of public welfare schemes run by the government.

Process

Under the Act, all authorities covered must appoint their Public Information Officer (PIO). Any person may submit a request to the PIO for information in writing. It is the PIO's obligation to provide information to citizens of India who request information under the Act. If the request pertains to another public authority (in whole or part), it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other within 5 working days. In addition, every public authority is required to designate Assistant Public Information Officers (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority. The applicant is not required to disclose any information or reasons other than his name and contact particulars to seek the information. The Central Information Commission (CIC) acts upon complaints from those individuals who have not been able to submit information requests to a Central Public Information Officer or State Public Information Officer due to either the officer not having been appointed, or because the respective Central Assistant Public Information Officer or State Assistant Public Information Officer refused to receive the application for information. The Act specifies time limits for replying to the request. If the request has been made to the PIO, the reply is to be given within 30 days of receipt. If the request has been made to an APIO, the reply is to be given within 35 days

of receipt. If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is 30 days but computed from the day after it is received by the PIO of the transferee authority. Information concerning corruption and Human Rights violations by scheduled Security agencies (those listed in the Second Schedule to the Act) is to be provided within 45 days but with the prior approval of the Central Information Commission. However, if life or liberty of any person is involved, the PIO is expected to reply within 48 hours.

Since the information is to be paid for, the reply of the PIO is necessarily limited to either denying the request (in whole or part) and/or providing a computation of "further fees". The time between the reply of the PIO and the time taken to deposit the further fees for information is excluded from the time allowed. If information is not provided within this period, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided in the times prescribed is to be provided free of charge.

Exclusions

Central Intelligence and Security agencies specified in the Second Schedule like IB, Directorate General of Income tax(Investigation), RAW, Central Bureau of Investigation (CBI), Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau, Special Branch (CID), Andaman and Nicobar, The Crime Branch-CID-CB, Dadra and Nagar Haveli and Special Branch, Lakshadweep Police. Agencies specified by the State Governments through a Notification will also be excluded. The exclusion, however, is not absolute and these organizations have an obligation to provide information pertaining to allegations of corruption and human rights violations. Further, information relating to allegations of human rights violation could be given but only with the approval of the Central or State Information Commission.
