



Our Creative Info

Education & Competitions

(Constitution of India)

Constitution of India

Meaning and Importance of Constitution

- The word 'Constitution' is derived from the word 'Constitute' which means 'to form' or 'to establish'.
- Constitution is the fundamental law of the land
- It Lays down the basic structure of political system under which its people are to be governed
- Constitution is a body of rules & regulations according to which Govt. functions, the people enjoy rights & meet their obligation

“Constitution is the collection of principles according to which the powers of the government, rights of the governed & the relations between the two are adjusted”-Woolsey

Importance:

“A state without a constitution would not be a state but a regime of anarchy”-Jellinick

- Controls the arbitrary nature of Govt. & establishes rule of law.
- Guarantees fundamental rights & liberties to citizens
- Ensures greater political participation of the people
- Ensures the smooth functioning of the federal set up
- Provides for peaceful change in the system through legal & legitimate methods.

Constituent Assembly

- According to the recommendation of the Cabinet Mission Plan a Constituent Assembly was established in 1946 to frame a constitution for independent India.
- Dr. Rajendra Prasad was elected as the President
- It was as Assembly of eminent leaders such as Nehru, Patel, Dr. Ambedkar, Maulana Azad, BN Rao, Dr. Radhakrishna, KM Munshi, Gopalswamy Ayyengar, Krishnaswamy Iyer, TT Krishnamachari & Many others
- It has 389 members elected by the elected representatives of different provinces.
- The Assembly set up a Drafting Committee to prepare the draft of the constitution. Dr. Ambedkar was the Chairman of the Drafting Committee & Dr. Rajendra Prasad was the President of the Assembly.
- Assembly adopted the Constitution on 26th Nov 1949
- The Constitution came into force on 26th Nov 1950

Issues discussed in the Assembly

Nature of Democracy – Parliamentary or Presidential?

Rights & Liberties of the people

Division of Powers between the Centre & States, Jurisdiction of Judiciary

Citizenship, Secularism, Socialism& social justice.

Preamble & Philosophy of the Constitution

Every Constitution begins with an introductory part called 'Preamble', so also Indian Constitution. Preamble contains the content (aims & objective) of the Constitution. The Preamble of Indian Constitution records 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;

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JUSTICE; Social, Economic, Political;

LIBERTY; 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 Unity and Integrity of Nation.

IN OUR CONSTITUENT ASSEMBLY, This 26th Day of November 1949, DO HERE BY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION”.

42nd Amendment to the Constitution of India 1976 added the words-Socialist, Secular and Integrity to the Constitution.

Significance of the Preamble: Preamble represents the Philosophy, Ideals and Objectives of the Constitution of India. It Contains the Ideals and Objectives of the Social and Political Order to which the people India are always committed (Democracy, Secularism, Socialism, Justice, Liberty, Equality, Fraternity, Rights & Duties, Dignity of the People and Unity & Integrity). According the makers of IC Preamble is “The Soul of the Constitution”

Philosophical Values & Objectives in the Preamble:

1. **Liberalism:** Indian Constitution guarantees liberty & rights of people. It also makes a legal arrangement to protect the guaranteed rights & liberties. The Government is limited & should work according to Constitutional limitations.
2. **Parliamentary Democracy:** Constitution of India proved for a parliamentary form of government both at the Centre & the state. The President of India is a nominal executive. There is a Council of Ministers headed by the Prime Minister who is the real executive. The Prime Minister and his council of Ministers are responsible and accountable to Parliament & in power till they enjoy the required majority support in the Parliament.
3. **Sovereign, Socialist & Secular State:** The Constitution declares India as the Sovereign state. It means that state is supreme internally and it is free from external control.

The Secular nature of the Constitution is more explicit. There is no state religion in India. Indian state provides equal freedom and respect to all religions. Religions freedom is guaranteed to all citizens.

Socialism continues to be a prime feature of the Indian State. India is committed to secure economic justice, ending all forms of exploitation and to secure equitable distribution of wealth & resources through democratic & constitutional means.

4. **Social, Economic and Political Justice:** Indian constitution seeks to secure social economic and Political Justice for all people.
 - **Social Justice:** Absence of special privilege and discrimination based on caste, color, religion, sex or place of birth. It also stands for eliminating social exploitation in the name of caste.
 - **Economic Justice:** Absence of discrimination between people on the basis of income or wealth. It involves equal distribution of wealth & decentralization of economic resources. Equal opportunities to all for adequate livelihood.
 - **Political Justice:** It means free, fair & equal opportunities for all people for political participation. It stands for the grant of political rights to all & equally without any discrimination.

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4. **Liberty, Equality & Fraternity:** Indian constitution guarantees liberty of thought, faith & worship and rights to all people. Equality of states and opportunities to all without any discrimination fraternity (feeling of brotherhood) ensures individual dignity and national unity & integrity.

SOURCES OF THE INDIAN CONSTITUTION

The framers of the Indian constitution prepared the best document by borrowing the good values of different constitutions of the world. However, they applied it to the Indian society with great creativity. Following are the sources of our constitution.

1. Values of **National Liberation Movement:** like national unity, unity in diversity, democracy, secularism, liberty, equality, justice, rule of law, faith in peaceful and constitutional means, Nehru report etc.
2. **Government of India acts 1909, 1919 and 1935 Indian independence act: The government of India act, 1935** provided for the distribution of powers, federal structure of India, provincial autonomy, responsible form of government, bicameralism, emergency provisions etc.
3. **Impact of other constitutions:** The intention of the constitution framers to prepare the best one by including the good features of different constitution of democratic countries. Therefore they included all such features which might suit the prevailing conditions of India. They mainly adopted the British parliamentary system. At the same time they adopted fundamental rights from USA, fundamental duties from USSR, directive principles from Irish constitution, federalism from the Canadian and Australian constitutions, and emergency provisions from the constitution of Germany. However while adopting these features, framers always kept the Indian needs and conditions in view. They never blindly copied these.
4. **Constitutional Assembly Debates:** The constitution of India is the child of the constituent assembly. The perceptions and ideological orientations of the constitution makers, the reports of the committee mainly the drafting committee and the debates held in the constituent assembly on issues like socialism, secularism, federalism, directive principles, rights of the people, welfare state, planning etc provided the basic threads for its formation.
5. **Judicial Decisions:** The historic judgments of the Supreme court on the basic structure of the constitution like A.K. Gopalan case, Golaknath case (1967) and Keshavananda Bharati case (1973) etc. influenced the working of our political system.
6. **Constitutional Amendments** regarding right to property, fundamental rights, duties, voting age, anti-defection, reservation and division of powers between unions and the states, parliamentary powers, jurisdiction of the judiciary, official languages have helped the constitution to change, adjust, develop and serve the needs of the changing environment.
7. **The Parliamentary Statutes:** passed from time to time on subjects like citizenship, member of judges of the supreme court, reorganization of states, people's representation acts, right to information act etc and also ordinances issued by the president of India occupies an important place.
8. Finally **Conventions** like Governor of a state has to be from outside, PM can be from either of the 2 houses of the parliament, neutrality of the speaker of Lok Sabha, election of the speaker, appointment of council of ministers etc. influence the working of our constitution and the system.

Salient Features of Indian Constitution

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1 Longest written Constitution: with 395 Articles, 12 schedules and 22 parts. All aspects of administration are discussed at length in the Constitution. Diversity is also a reason for the framing big constitution

2 Sovereign, Democratic and Republic: India is a Sovereign state (internally supreme and externally free from foreign control). Constitution also establishes a parliamentary democratic system of government. The elected representatives of the people form the government and that government is responsible and accountable to parliament as well as people. India is also republic, as the head of the state and the President is indirectly elected by the people.

3 A Secular State: There is no state religion in India. Indian state provides equal respect and treatment for all religions. Constitution guarantees religious freedom to all people.

4 A Socialist State: 42nd Amendment of Constitution (1976) added the word 'Socialist' in its preamble, but it does not mean India like China is a Socialist State. Establishing economic justice and equality, strengthening public sector industries without discouraging private sector and equal distribution of wealth among people are socialist goals of Indian State.

5 Combination of rigidity and flexibility: Indian Constitution combines the rigid and flexible methods of Amendment (A.368). Some of provisions of IC can be amended by simple majority in the union parliament and some other provisions can be amended by a two third majority in each House of the Parliament and ratification by at least half of the state legislature.

6 Federal in Structure but Unitary in Spirit: India Constitution in federal Structure with two sets of government- Union Govt. & State Govt. But in India Central govt. is more powerful than the State governments. All important powers are concentrated with Central Government only.

7 Parliamentary form of Government: (Cabinet headed by Prime Minister) In India council of Ministers headed by Prime Minister (real executive) is collectively responsible to the parliament. They remain Power as they long as they enjoy majority support in the parliament. The President of India (the head of the State) is nominal executive and always acts according to the advice of Prime Minister.

8 Fundamental Rights and Duties (A. 14 to 32): Part III of IC contains a detailed list of 6 fundamental rights of the people. They are- Right to Equality, Freedom, Religion, Right against Exploitation, Cultural and Educational Rights and Right to Constitutional Remedies. Article 51[A] contains a list of Fundamental Duties. Duties were added to IC by 42nd Amendment Act. There are 11 fundamental Duties at present.

9 Directive Principles of State Policy (A.36 to 51): Part IV of the our Constitution deals with DPSP. Directive principles are the instructions issued to the government for the promotion of welfare of people. They are broadly classified into 3 types- Socialist Principles, Gandhian Principles and Liberal & Intellectual Principles.

10 Integrated and Independence Judiciary: A single unified Independent and Impartial Judiciary has been established by IC. The Supreme Court is the Apex Court and all other courts subordinate courts which work under the supervision of Supreme Court of India. The Judiciary is independent from control of Executive and Legislature. In addition Supreme Court has the power of judicial review.

11 Universal Adult Franchise: In India voting right is given to all eligible citizens irrespective of differences based on caste, colour, religion, sex, language etc.

12 Single Citizenship: Every Indian irrespective place of residence is a Citizen of India. The reason for recognizing single Citizenship is to promote Equality unity and Integrity of India

13 Common All India Services like IAS, IFS, IPS, and IES etc. for entire country

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14 Single Election Commission: Constitution established three members Election Commission to conduct free and fair election in India. It enjoys independent & autonomous position.

FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES.

Fundamental Rights:

Rights are the claims of the people recognized by the state.

Rights guaranteed by the Constitution of A State are called as Fundamental Right.

Rights are essential for the development of Individual personality greater political participation and to lead meaningful life. Part III of IC (A.14-32) deals with Fundamental rights.

Features:

- Fundamental rights are not Absolute; They are subject to reasonable restrictions and limitations
- Fundamental rights are justiciable: People can move to Court of Law for the protection of their fundamental rights.
- Fundamental rights are superior to the ordinary laws by the Parliament
- Fundamental rights can be amended by an Absolute majority in both the houses of Parliament.
- Fundamental rights can be suspended during emergency except right to life.
- Some Fundamental rights like Political rights, Equality in Public employment are guaranteed only to Citizens.

Types of Fundamental rights:

Right to Equality(A.14-18)

Right to Freedom(A.19-22)

Right Against Exploitation (A.23-24)

Right to Religion (A.25-28)

Cultural and Educational Rights (A.28 & 30)

Right to Constitutional Remedies (A.32)

Right to Equality:

1. **Equality before law and equal protection of laws:** According to Indian Constitution State shall not deny any persons equality before law and equal protection of law within the territory of India (A.14)
2. **Prohibition of Discrimination:** The State should not discriminate people on the grounds of religion, race, language, sex, place of birth etc. (A.15)
3. **Equality of Opportunity:** There shall be equal opportunities for all citizens in matters relating to public employment. (A.16)
4. **Abolition of Untouchability:** Practicing untouchability is a punishable offence in India (A.17)
5. **Abolition of Title:** No Title except military and academic distinction shall be avoided by the State. No citizens shall accept title from foreign countries without the permission President of India. (.18)

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Right to Freedom:

1. Freedom of speech and Expression [A.19(1)] : Right of speech and expression is an absolute necessity in a free democracy. The people have freedom to express their opinions through speeches and writings. Freedom of speech is essential for free discussion and honest exchange of opinions. There can be effective working of parliamentary democracy without this right. However while exercising this right citizens should not disturb public order and security of the State.
The freedom of press is not mentioned in IC but freedom of expression has no meaning without the **Freedom of Press**. Thus Freedom of Press is an implied freedom.
2. Freedom of Assembly [A.19(2)]: According 19(2) of our constitution recognizes the right to assemble peacefully without It includes the right to hold public meetings rallies and to go in a procession. This freedom is subject to 2 reasonable restrictions they are:
 - Meeting should be peaceful
 - Those who participate in public meetings should not carry any dangerous weapons with them.
3. Freedom of Association: [A.19(3)]: Under A.19(3) allows freedom to form associations or unions such as political parties, trade unions, interest groups, companies, clubs and other organizations. Political parties and pressure groups are essential for the successful working of parliamentary democracy. However state can impose reasonable restrictions in the interest of public order, morality and sovereignty and integrity of India.
4. Freedom of Movement [A.19(4)]: Constitution guarantees to all citizens the right to move freely throughout the territory of India.
5. Freedom of Reside and Settle [A.19(5)]: IC guarantees the right to reside and settle in any part of country. This freedom aims at rational integration.
6. Freedom of Profession and Business [A.19(7)]: IC provides the freedom to practice any profession or to carry any profession, trade or business. In short people are entitled to take up the occupation of their choice that will help in the evolution of a free democratic society. However people can't take up profession or trade which are harmful, illegal and immoral in the society.

Protection in respect of Conviction of offenses [A.20]: Under this article deals with protection against arbitrary and excessive punishment to any person who commits an offense. There are 4 such guaranteed protections

1. No person can be convicted of an offense unless he has violated a law in force.
2. No person can be submitted to greater penalty than what is punishable under the law.
3. No person can be punished for the same offense more than once.
4. An accused person can't be compelled to be a witness against himself.

Protection of Life and personal liberty [A.21]: Under this article No person shall be deprived of his life or personal liberty except according to procedure established by law. Thus no person can be subjected to any physical torture without legal justification. It ensures that no person can be punished at the will of a person or an authority. A person is subject to punishment only if a law passed by proper authority is violated.
Article 21 A made education a fundamental right {86th Constitutional Amendment Act}

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Protection against Arrest and Detention [A.22]: Under this article Constitution deals with the protection against arrest and detention. This article guarantees 3 rights;

1. It guarantees right of every person who is arrested to be informed of the course of his arrest
2. Every person arrested and detained in custody shall be produced before nearest magistrate within 24 hours and shall be kept continued in custody only with his permission.

These safe guards are not available to enemy aliens and to those citizens who are arrested under preventive detention.

Right against Exploitation [A.23]: This right is intended to protect the dignity of the individual. This protects an individual against any form of exploitation either by the states or by the privileged class in the society.

Indian Constitution under A.23 prohibits all forms of forced labor, beggar (work without payment) and Traffic in human beings. Any violence of this provision is an offense punishable in accordance with the law.

A.24 deals with prohibition of child labour. It prohibits the employment of children below the age of 14yrs to work in any factory or mine or in any hazardous employment.

Right to Freedom of Religion [A.25 to 28]: India is secular state which observes the attitude of neutrality and impartiality towards all religions. A.25 to 28 of our Constitution fulfills the declared objective of secularism in India.

A.25 of our Constitution declares that all people will have the freedom of conscience and right to profess, practice and propagate any religion.

According to A.26 every religious section has the right to

- Establish and maintain institutions for religious and charitable purposes.
- To manage its religious affairs
- To own and acquire moveable and immovable property
- To administer such property in accordance with the law.

A.27 says that no person shall be compelled to pay any taxes for the promotion and maintenance of any religion

According to A.28 of our Constitution no religion instructions shall be provided in any educational institutions maintained out of state funds.

Cultural and Educational Rights[A.29 to 30]: Cultural and educational rights are incorporated in our constitution to protect the interests of the minorities, It includes the following provisions.

1. According A.29(1) Any section of the people in India having its own language, script or culture shall have the right to conserve the same.
2. According A.29(2) No Citizen can be denied admission to any educational institution maintained out of state funds on the grounds of religion, race, cast, language or any of them.
3. According A.30(1) Provides all the minorities whether based on religion or language shall have the right to establish and administer educational institutions of their own choice.

Right to Constitution Remedies [A.32]: The Constitution has guaranteed in A.32 the right of the people to move to high courts and supreme courts for the enforcement of fundamental rights. The right to move to

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the court for this purpose is known as the right to Constitutional remedies. Dr. B.R. Ambedkar calls it as “heart and soul of the constitution” (backbone). The constitution of India has not only given the FRs but also guaranteed remedies against the violation of FRs,

1. A.32(1) has guaranteed the right to people to move to the Supreme Court and High Courts for the enforcement of their rights.
2. A.32(2) deals in more specific terms with the powers of SC to issue writs unVao day nghe bai nay di ban <http://nhatquanglan.xlphp.net/>
- 3.
4. for the enforcement of FRs. The important writs are;
Habeas corpus, Mandamus, Prohibition Quo -Warranto and Certiorari

HABEAS CORPUS: Literally it means “U may have the body”. According to this writ unlawfully detained person may be produced before the court, so that the court may examine whether the detention was legal or illegal. If the detention was illegal, the court may set him free.

MANDAMUS: This term means “we command”. This writ may be issued in case the court wants to order an official to perform a certain duty which he might have ignored. This writ is issued mostly when public servants fails\ to perform their duty.

PROHIBITION: This writ is normally issued by a superior Court asking a lower court not to proceed with a case where it does not have any jurisdiction. The trail in the lower courts comes to an end when the writ of prohibition is issued.

QUO-WARRANTO: Literally it means “By what order”. If a person is performing a function which he is not lawfully entitled to, the court may stop that person from exercising that function by issuing this writ.

CERTIORARI: This term means “To be more fully informed of”. This writ is issued by a court if its wants some additional information or records from a lower court. It may be issued asking a lower court to send to the higher court the records and the proceedings in some case so that the superior court may be able to deal with the case more effectively.

Thus the 5 types of writs are most effective weapons in the hands of the supreme court, with the help of which it can ensure the enjoyment of rights by the people and to restore their rights in case of any violation.

The original constitution did not contain a provision for fundamental

Fundamental duties

Amendment Act of 1976. They were included in Part IV(A) and A.51(A)

A.51(A) states that it shall be the duty of every citizen of India;

1. To abide by the constitution and respect the National Flag and National Anthem
2. To Cherish and follow the noble ideals which inspired our national struggle for freedom.
3. To protect the sovereignty, unity and Integrity of India.
4. To defend the country and render national service when called upon to do so
5. To preserve the rich heritage of our composite culture.
6. To promote the sprit of common brotherhood amongst all the people of India.
7. To protect and improve the natural environment.
8. To develop the scientific temper and sprit of enquiry.
9. To safeguard public property.
10. To strive towards excellence in all spheres of individual and collective activity
11. It shall be the duty of the parents to provide opportunities for education to their children between at age of 6 & 14yrs. (86th Amendment Act 2002)

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Directive Principles of State Policy

Directive Principles of State Policy are listed in part-4 of our constitution. There are 16 articles from A-36 to A-51 that deals with the Directive Principles. The Directive Principles are instructions to the legislative and executive authorities to work for political, social and economic justice. The idea of Directive principles of state policy was borrowed from the constitution of **IRELAND**.

court of law for the enforcement of these principles. However these principles are the instructions of forming fathers of Indian constitution for the establishment of welfare state based on socio-economic justice.

Constitution of Indian Republic classified all the directive

principles into 3 categories.

1. Socialist principles
2. Gandhain principles
3. Liberal-intellectual principles

Socialist Principles: socialist principles aim at economic justice. Our constitution includes certain socialist principles under directive principles. Accordingly the state shall direct its policy towards securing;

- Adequate means of livelihood to all citizens.
- Proper distribution of material resources of the community for the common good.
- Prevention of concentration of wealth and means of production.
- Equal pay for equal work for both men and women.
- The health and strength of workers, men and woman and the tender age of children must not be abused.
- The right to work, right to education and public assistance in case of unemployment, old age, sickness and disables.
- Just and humane conditions of work and for maternity relief.
- To all workers a living wages, a decent standard of life, leisure, social and cultural opportunities for the people.
- The participation of workers in the management of undertaking or organizations engaged in any industry.

Gandhain Principles:

- The state shall take steps to organized village panchayats as units of self-government.
- To promote cottage industries.
- To promote with special care educational and economic interests of weaker sections of the people especially the SC and ST.[A.46]
- To prohibit the slaughter of cows and other wild animals.
- To organize agriculture and animal husbandry on modern and scientific lines.
- To bring about the prohibition of intoxicating drinks or drugs those are injuries to health

These principles aim at achievement of a welfare society on the lines suggested by **M.K. Gandhi**.

Liberal-intellectual principles (general principles):

- Constitution under A44 aims to secure for all Indian a uniform civil court code.

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- The state shall take steps to secure the separation of judiciary from the executive.
- The state shall try to provide within 10 years from the commencement of constitution, free and compulsory education for children up to the age of 14[A.45].
- Under a-51 of constitution the state is expected to:
 - To promote international peace and security.
 - To maintain just and honorable relations between nations.
 - To develop respect for international law and treaties.
 - To encourage settlement of international disputes by arbitration.

The directive principles are an integral part of the Indian constitution they play an important role in the task of achieving the goal of a welfare state. Even though the directive principles are non-justiciable, the constitution declares that the directive principles are fundamental in the governance of the country.

REVIEW OF THE CONSTITUTION

In February 2000, the Government of India setup a National Commission to review the working of the Constitution of India. It had eleven members including jurists, constitutional and political experts and media representatives. It was headed by Venkatchaliah, a former Chief Justice of India. The Commission was established with an intention to review, analyse and suggest amendments to the constitution. The Commission recommended the ways for improving the quality of our political institutions and for ensuring rule of law, transparency and accountability in the working of both central and state governments.

Recommendations

- To include freedom of press, right to information, education, right to privacy and right against torture in the list of Fundamental Rights.
- To make the right to religion non suspendable.
- Preventive Detection of any person should not exceed more than six months.
- Greater decentralization in center-state relations.
- Using Article 356(State Emergency) as a last resort.
- Creation of a National Judicial Commission for over-seeing the conduct of the Judges of the Supreme Court and High Courts.
- Canceling the membership of the legislators who defect.
- Introduction of Two-ballot system for ensuring majority.
- To set up Lok Dal, but to keep the office of Prime Minister out of its preview.
- Not to allow a candidate from contesting elections in more than one constituency.
- To limit the size of the Cabinet to 10% of the strength of the Lower House.

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- Initiating no-confidence motion only by naming the alternative leader.
- Discontinuing the M.P. Local Area Development Scheme.
- Rise in retirement age of High Court Judge to 65 years and Supreme Court Judge to 68 years.

THE PRESIDENT OF INDIA

India is a Republic and the head of the state is an elected President. Art 52 of the Indian constitution deals with the President of India. The President of India is the constitutional Head of the Union of India. The executive powers of the union government are rested in his hands.

QUALIFICATIONS:

To become President of India:

1. One must be a citizen of India.
2. He/She must attain **35 years** of age.
3. He/She must be qualified for election as the member of loksabha.
4. He/She must not hold any office of profit under the union or state government at the time the election.

The President of India cannot be member of the Parliament or of a state legislature. Any member of legislature who is elected as the President of India should resign for his membership.

Election of the President:

The President of India is elected by an electoral college composed of:

1. **Elected members of Parliament.**
2. **Elected members of state legislative Assemblies.**

The President of India is elected by the method of proportional representation with a single transferable voting system. The value of votes of the each elected member of the state legislative Assemblies and the parliament shall be determined by the following manner;

$$\begin{array}{l} \text{The value of a vote cast} \\ \text{By an elected MLA} \end{array} = \frac{\text{population of the state}}{\text{Total number of elected} \\ \text{MLA's}} / 1000$$

$$\begin{array}{l} \text{The value of a vote cast} \\ \text{by an elected MP} \end{array} = \frac{\text{Total number of votes give to all elected} \\ \text{MLA}}{\text{Total number of elected member of} \\ \text{Parliament}}$$

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The election will be held by secret ballot system. The votes shall mark their preferences 1, 2, 3, in the ballot against the name of the candidates. To win the election a candidate must get a fixed got a vote of

The president of election is conducted by Election Commission of India. The disputes arising out of the election of the President are settled by the Supreme Court of India.

Term of office:

The President of India is elected for a term of **5 years** and is eligible for re-election. The president of India may resign before the expiry of the term. The resignation must be addressed to the Vice President of India who immediately communicates it to the speaker of lok Sabha.

Removal from office(Impeachment):

Article 61 of our constitution deals with the process of removal of the President before the expiry of his term is called impeachment. The President can be impeached only for the violation of the constitution. The charge of impeachment may be initiated in either of the two Houses of the Parliament. A **14 days** notice has to be given to the President signed by $\frac{1}{4}$ th of total membership of House. The resolution must be adopted by a majority of $\frac{2}{3}$ of the House. The charge is then investigated by the other House and if the charge is upheld, the President stands impeached.

Powers and functions of the President:

Constitutionally President enjoys many powers. But in actual practice he does not exercise them. The constitution provides for a Council of Ministers to aid an advice the President may be listed as follows:

1. Executive Powers:

According to **article 53** of the India constitution, The supreme executive power of the union government is vested with the president, who can exercise it directly or through his subordinates. The executive powers of the President are as follows.

2: Administrative Powers:

The entire administration of the Indian government is carried on in the name of the President of India. The President has the power of appointment and removed. He appoints the Prime Minister on his advice the other Ministers. He also appoints the judges of Supreme Court, High Court, the Governor of the states, the Attorney General, The Comptroller and Auditor General, the Chairman and Members of the Union Public Service Commission. The Election Commissioners etc., He can also remove all these officials of the government of India he accepts the resignation of Prime Minister and his Council of Ministers.

Military Powers:

The president is the **supreme commander** of defense forces. He appoints the heads of the army, navy, air force. He has the power of declaring war and concluding peace. The President is also the head of

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national defense committee and has the power to administer Union Territories. He may entrust the administration of the Union Territory to the governor of a neighboring state.

Diplomatic Powers:

The President as the head of the state maintains foreign relations. He sends and receives ambassadors and other diplomatic representatives. All international treaties and agreements are concluded in the name of the President.

Legislative Powers:

According to the constitution of India the President is an integral part of the Parliament. Though he is not a Member of Parliament he enjoys a number of legislative powers.

Summoning the Parliament and dissolving the Lok Sabha. The President has the power to summon the Parliament twice in a year. And dissolve the Lok Sabha if necessary. At the commencement of the 1st session of the Parliament and the 1st session of the new government, the President delivers an inaugural address prepared by the Prime Minister and Council of Ministers on the policies and programs of the government.

Power to send Messages:

The President may send messages to both the Houses of the Parliament regarding any bill pending in the houses and on administrative matters.

Power to issue ordinances:

When the Parliament is not in session the President is empowered to issue ordinances. The President's ordinance has the same force as an Act of Parliament.

Nomination to Lok Sabha and Rajya Sabha:

The President is empowered to nominate 12 members to the Rajya Sabha who are experts in the fields of Literature, Science, Arts, Social Service etc., He can also nominate two members of the Anglo-Indian community to the Lok Sabha, in case that community is not adequately represented.

Assent to Bills:

No bill passed by the Parliament can become a law unless it receives the President's assent. The President can reject the bill for the first time. But if it is passed again by the Parliament with or without amendments the President is bound to give his assent to that bill.

Financial Powers:

- No money bill can be introduced in the Lok Sabha without the prior recommendation of the President.
- President also appoints a Finance Commission, to make recommendation regarding the distribution of revenue between the Union and States.

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- The Contingency Fund of India is at the disposal of the President. He can make advances from it to meet the unforeseen expenditure.

Judicial Powers:

The President of India exercises some judicial power also. They include

- To grant pardon and reduce the punishment.
- To appoint the Chief Justice and other judges of the Supreme Court and also High courts. The President is not answerable to any court of law for the exercise of function of his office. No criminal proceedings can be initiated against the President during the term of office.

Emergency Powers:

Part XVIII of our constitution deals with the emergency powers of the President. Accordingly the President is empowered to declare 3 types of emergencies. They are:

National Emergency(Art 352):- If the President is satisfied that situation has arisen in which the security of India or any part of territory of India is threatened or slightly to be threatened by war or external aggression or internal armed rebellion, then he can proclaim national emergency. The satisfaction of the president depends upon written advice of the Council of Ministers headed by the Prime Minister and if cannot be questioned in a court of Law.

National emergency is issued for a period of 6 months and is subject to approval by the Parliament within a period of 1 month. This can be extended for a period of 6th month and so on. till the emergency is so required with the approval of Parliament. National emergency can continue to be in operation unless it is revoked by the president

Art. 352 deals with the in text of national emergency they are:

- The union parliament will be vested with unlimited power to make laws for the whole or any part of India. It can make laws even on the subjects mentioned in the state list.
- The Parliament can extend its own term for a period not exceeding one year at a time.
- The President shall be given the power to suspend the Fundamental Rights mentioned in Indian constitution. But according to the 44 Amendment he has no power to suspend the right to life and liberty.

State Emergency (Constitutional Emergency Art 356):-

The President may declare state emergency, if he is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the constitution. This is popularly known as imposition of the President rule in states. The President imposes state emergency on the report of the Governor and such a proclamation of emergency must be adopted by the parliament within a period of the one month. The period of state emergency cannot be extended beyond three years.

During the state emergency the President conducts the administration of the particular state through the Governor or the administrators appointed by him. The state legislature may be dissolved by the President and the Union Parliament make the laws for that state.

Financial Emergency (360):-

If the President is satisfied that a situation has arisen where by the financial stability of India or any part of the territory of India is threatened, the financial emergency can be declared. Such a proclamation requires Parliamentary approval within a month. It cannot operate for more than 6 months at a time. It cannot be extended beyond 3 years.

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During financial emergency the salaries and allowances of government officials including the judges of Supreme Court and High court may be reduced. All money bills shall be reserved for the consideration of the President by the state legislature.

Constitutional Position of a President:-

The president of India is the head of the state with nominal authority. The real authority is exercised by the Prime Minister. It would be however a gross mistake to treat Indian President as 'A Rubber Stamp' 'He is the friend, philosopher and guide of his government. According to Dr. Ambedkar "He is the head of the state but not of the executive, he represents the nation but does not rule over the nation "Though the president is not equipped with any real power yet his office is one of great dignity and considerable influence. He is the symbol of Indian Nation Unity. How far he will be in a position to exert influence upon the government depends upon his ability and personality .

Vice president of India:-

According to 63 of the Indian constitution if the office President falls vacant by his removal, death, resignation of other wise the Vice President acts as the President until a new President is elected.

Qualification:-

The following qualification is layer down for the office of vice president:-

- He must be a citizen of India.
- Must attain 35 years of age.
- Should be qualified to be elected as a member of Rajyasabha.
- Should not hold any office of profit under any of the governments with in the tertiary of India.

The Vice President cannot be a member of the parliament or of any state legislatures. If he is already a member, he must resign the membership before he assumes the office of Vice President.

Mode Election:-

The Vice President is elected by the members of both the Houses of Parliament. He is elected by the single transferable vote system by secrets ballot.

Term and Removal:-

The Vice President is elected for a term of 5 years. He may resign even before the expiry of his term if a resolution is passed by the RajyaSabha and approved by the LokSabha. It is also provided that the Vice President continues to discharge his duties till his successor enters upon his duties. The Vice President is eligible for the re-election also.

Powers and Function of Vice President:-

The Vice President of India equipped wit 2 fold functions:-

- He is the ex-officio chairman of the RajyaSabha and exercises all the functions as a presiding officer. He presides over the meetings of RajyaSabha and maintains discipline in the House. Since he is not a member of RajyaSabha, he doesn't participate in voting in the house. However he is entitled to cast a vote in case of tie. He protects the privileges of the members of the Rajya Sabha.
- In case office of the president falls vacant due to his death, resignation or impeachment, the Vice President temporarily acts as a President of India. A new president must be elected with in 6 months from the date the office falls vacant. The Vice President also acts as the President if the President is unable to discharge his duties.

THE PRIME MINISTER

The Prime Minister of India is the most important personality in the governance of the country. He is the real head of the state. The concentration of powers in the hands of Prime Minister is so much that today we have Prime Ministerial government in India which is a new concept in Indian political system.

Appointment of the Prime Minister:

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The Prime Minister is appointed by the president generally the president invites the leader of the majority party in the Lok Sabha to choose his leader. However when no single party or coalition commands majority in the Lok Sabha to form the government then the president enjoys sufficient freedom of choice in the appointment of Prime Minister.

Powers and Functions of the Prime Minister

1. Formation of the Council of Ministers

Immediately after his appointment the Prime Minister constitutes his Council of Ministers. The constitution requires the President to appoint ministers on the advice of the Prime Minister. In the process of formation of ministry, the Prime Minister is given a free hand. He may include any member in the team of ministry. The ministers selected by the P.M remains in office during his pleasure.

2. Distribution of Portfolios

The Prime Minister distributes portfolios to individual ministers according to his own choice. He can assign any department to any person he likes. He is empowered to review the distribution of office among his colleagues from time to time. He may demand resignation of any minister or change the portfolios.

3. Chairman of the Cabinet

As the chairman of the cabinet the Prime Minister fixes the dates of its meetings its agenda and presides over the meeting. He also takes important cabinet decisions and coordinates the work of the cabinet. In case of difference of opinion among the ministers he can impose his decision on them.

4. Leader of Parliament

The Prime Minister is the leader of our parliament. As the leader of the parliament the Prime Minister determines the dates of its meeting and the programmes for the session. The ultimate responsibility for smooth running of the government in the parliament belongs to Prime Minister. He is the chief spokesman of the government in the parliament. He can intervene in debates pertaining to any ministry. The Prime Minister also has the power to advise the president to dissolve the Lok Sabha.

5. Head of the Government

The Prime Minister is responsible for the formulation and execution of government policies. He is responsible for efficiency and integrity of the government. The Prime Minister is the chief spokesman of the government on all matters of domestic and foreign policy. He represents India in various international conferences.

6. Coordination

The Prime Minister has to coordinate the activities of various department and ministers. In case of any difference of opinion the Prime Minister will act as a mediator in settling the differences.

7. Link between the President and Cabinet

The Prime Minister is the main link between the president and the cabinet. It is his duty to inform the President about the decision taken by the cabinet. He consults the President on matters of public importance. He is also the chief advisor to the President of India.

8. Makes Major Appointments

All major appointments are made by the president on the recommendation of the Prime Minister. He selects suitable persons for appointment of Governors, Ambassadors, Comptroller and

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Auditor general, Attorney General, Chief Justice and judges of the Supreme Court and High Courts etc., All these appointments are made by the president but on the advice of Prime Minister.

Position of the Prime Minister

The P.M occupies a supreme position in Indian politics and government. All the powers which are formally vested in president of India are exercised by the P.M. More precisely the P.M is described as “The Keystone of the cabinet arch.” The actual position of the P.M depends on 3 factors. Support of his ministers, political conditions and his own personality.

UNION LEGISLATURE

Under the constitution the legislature of Indian Union is called as the Parliament. The Indian Parliament is constituted on the basis of principle of bicameralism i.e., the legislature having 2 houses. The lower House of the India Parliament is the House of the people (Lok Sabha) and the upper house is the Council of States (Rajya Sabha).

According to A-79 of Indian Constitution, the Union Parliament shall consist of President of India and the 2 Houses. Though the president is not a member of either of the 2 houses of the parliament, yet he is an integral part of it.

Lok Sabha (house of the people)

Composition

Lok Sabha, the lower House of Indian Parliament is also called as the popular House. The members of Lok Sabha are directly elected by the people on the basis of universal adult franchise system. For the purpose of election each state is allotted a certain number of seats on the basis of its population in proportion to the total population of all the states. The maximum number of members to be elected to the Lok Sabha is fixed by the constitution. Accordingly, the strength of the elected members in Lok Sabha should not exceed 545 members and out of these a maximum of 20 seats are reserved for members from the Union territories. The president can nominate 2 members to the Lok Sabha to represent Anglo Indian community if in his opinion that community is not adequately represented.

Qualification

The constitution prescribes the following qualifications for the membership of Lok Sabha.

- i. He should be a citizen of India.
- ii. He should not be less than 25 years of age.
- iii. He should possess such other qualification as may be determined by the parliament.

Disqualifications

The constitution has laid down certain disqualifications for the membership. They are,

- i. No person can be a member of both the Houses of Parliament at a same time.
- ii. A member may be disqualified if he absents himself for a period of 60 days from the meetings of the Houses without the permission of the speaker.
- iii. If he holds an office of profit under any of the government of India.
- iv. If he is of unsound mind.
- v. If he voluntarily acquires the citizenship of another state.

Term

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The normal tenure of the Lok Sabha is 5 years from the date of its first meeting. But it may be dissolved earlier by the president of India. The president is also empowered to extend the life of the House for one more year during national emergency.

Sessions

The constitution provides that the House shall meet at least twice in a year and the interval between the 2 sessions shall be less than 6 months. The president of India convokes the sessions of the House. The House transacts its business under the chairmanship of the speaker.

Salary & allowances

Since 2001, each MP gets a salary of Rs.12000/- per month, a Daily allowance of Rs.500/- per day during the session. In addition an MP gets secretarial allowance of Rs.40000/- per annum and Rs.10000/- as Constituent allowance. After completing successful term an MP gets a pension of Rs.3000/- per month along with this an MP gets a Development Expenditure of Rupees 2 crore per year. An MP is also entitled to enjoy Rent Free Accommodation, 32 free air tickets, unlimited and free traveling in First Class Air Conditioned train, Rs.8/- per km as TA, Free Telephone(150000 free local calls per year), Free Electricity(50000 units per year), Cleaned Drinking Water(4000 kilo liters per year), Free LPG, Medical Aid, Library and Full Security.

Powers and Functions of Lok Sabha

1. Legislative Functions

The parliament is primarily a law making body and it can make laws on all the subjects mentioned in the union and concurrent list. In matters of legislation any bill other than money bill may be introduced in either of the 2 houses. No bill can become a law unless it is also passed by Lok Sabha. In case of disagreement between the 2 Houses a joint meeting of the parliament is convened by the president to resolve the dispute. It is quite obvious that in the joint sitting of the parliament the will of the Lok Sabha prevails over the Rajya Sabha due to its numerical strength.

2. Executive powers(Control over the executive)

In a parliamentary system the executive is the part of the legislature and the legislature controls the executive. The constitution has made the council of ministers directly responsible to the Lok Sabha. The members of the Lok Sabha control the executive by asking questions, introducing adjournment motions etc., the Lok Sabha can remove the council of ministers by passing a "Vote of no confidence" against it if it lacks the required support. Thus the council of ministers remains in office as long as it enjoys the confidence of Lok Sabha. The moment it loses its majority it has to go out of office.

3. Financial powers

As far as the financial powers of the Lok Sabha are concerned, it enjoys an edge over the Rajya Sabha. The constitution provides that a money bill can originate only in the Lok Sabha. When a money bill is passed by the Lok Sabha it is sent to Rajya Sabha for its recommendations. The Rajya Sabha can only make recommendations which may or may not be accepted by the Lok Sabha. The Rajya Sabha has to return a money bill within a period of 14 days. If it does not return the bill within this period to the Lok Sabha, it will be deemed to have been passed by both the Houses of Parliament.

4. Constituent Functions

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The lok Sabha along with the Rajya Sabha has the power to amend the provisions of the constitution. . In case of disagreement between the 2 Houses a joint sitting of both the Houses may be recommended by the President. Here also the wishes of the lok Sabha will prevail because of its numerical strength.

5. Electoral Functions

The constitution gives electoral functions to the parliament. The lok Sabha along with Rajya Sabha and Legislative Assemblies elect the President of India. The lok Sabha and Rajya Sabha also elect the Vice President of India.

6. Miscellaneous Functions

- The lok Sabha enjoys co equal powers with the Rajya Sabha regarding the impeachment of the president, vice president, chief election commissioner etc. It can also remove the judges of Supreme Court and High Courts by passing a resolution.
- The approval of the lok Sabha and Rajya Sabha is required to continue with the emergency a rounded by the president.
- Lok Sabha as well as Rajya Sabha discusses the report of the commissions constituted by the government on any important public issues.

RAJYA SABHA (COUNCIL OF STATES)

Composition:

Rajya Sabha is the upper house or second chamber of Indian Parliament. The constitution lays down 250 as the maximum strength of Rajya Sabha and out of which 12 are nominated by the president. The nominated members are of special talents in the fields of art, science, literature, education, engineering etc. other 238 members are elected by the members of the legislative assemblies of the states.

Qualifications:

The constitution prescribes the following qualifications to become a member of Rajya Sabha;

- ✚ He should be an Indian citizen.
- ✚ He must have attained 30 yrs of age.
- ✚ He should possess such other qualifications as may be determined by the parliament.
- ✚ He should not be a member of lok Sabha or a state legislature after his election to Rajya Sabha.
- ✚ He should not hold any office of profit under any governments in India.

Term

The Rajya Sabha is a permanent House. It can't be dissolved like the Lok Sabha. Their members are elected for a period of 6 years. At the end of every 2 years 1/3 of its members retire after completing six year term.

Quorum

The quorum required for the meetings of the House has been fixed at 1/10th of the total membership of the House.

The Vice President of India is the ex-officio chairman of the Rajya Sabha.

There is a provision of deputy chairman also. The deputy chairman is elected from among the members of the Rajya Sabha.

Powers and functions of rajya sabha.

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1. Legislative powers:

Rajya Sabha along with Lok Sabha performs legislative functions. All bills other than money bills can originate in Rajya Sabha and no bills can become a law unless it is also passed by the Rajya Sabha. In case of disagreement between the 2 houses on any ordinary bill a joint session of both the houses of parliament may be convened by the president. The bill is generally passed in favor of Lok Sabha. Because the membership of Lok Sabha is merely double the strength of Rajya Sabha.

The Rajya Sabha can delay the passage of a non money bill for a maximum period of 6 months only. .

2. Financial powers:

Rajya Sabha has very little control on financial matters. The money bill has to be introduced in Lok Sabha and can't be introduced in Rajya Sabha. After a money bill is passed by the Lok Sabha, it is sent to the Rajya Sabha and it has to return the bill with or without recommendations within 14 days. It is left to Lok Sabha to accept or reject the recommendations of Rajya Sabha.

3. Executive powers:

The Rajya Sabha also exercises some control over the executive powers. The minister is appointed from both the Houses. They are allowed to attend the sessions of both the Houses. The Rajya Sabha can expose the misdeeds of the government on the floor of the House. The members can ask questions to the concerned ministers. They can also move resolutions and impress the government to follow a particular policy. However Rajya Sabha can't pass a vote of no-confidence motion against the government.

4 Constitutional functions:

The Rajya Sabha along with the Lok Sabha exercises constituent functions. A bill to amend the constitution can originate in the Rajya Sabha also. All amendments to the constitution have to be passed by the Rajya Sabha even if they are already passed by the Lok Sabha. If there is a disagreement between the 2 Houses on the question of any constitutional amendments, the president can convene a joint session of both the Houses to solve the problems.

5 Miscellaneous functions:

- A. The elected members of the Rajya Sabha participate in the election of the president and all the members of the Rajya Sabha participate in the election of vice president of India.
- B. The Rajya Sabha enjoys equal powers with the Lok Sabha in the process of impeachment of the president of India and the removal of judges of the Supreme Court, high courts, chief election commissioner etc.
- C. Rajya Sabha along with the Lok Sabha approves the proclamation of emergency declared by the president. The extension of emergency is also subject to its approval.

6 Special powers:

- Rajya Sabha exercises some special powers which are denied to Lok Sabha
- A. Rajya Sabha along with Lok Sabha can pass a resolution by its 2/3rd majority to shift a subject of state list to the concurrent list or to the union list. Such a resolution empowers the parliament to make laws on that item of state list even during normal times.
 - B. Rajya Sabha alone is empowered to create additional all India services with the approval of its members.

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- C. Rajya sabha will alone have to approve or disapprove a declaration of emergency when the lok Sabha stands dissolved.
- D. Rajya Sabha can alone initiate charges for the removal of vice president of India.

Conclusion:

From the above analysis it is clear that as compared to the lok Sabha, Rajya Sabha is a weak House. However Rajya Sabha creates an atmosphere where proper debate on any issue is possible.

The Speaker of lok Sabha

The speaker is the presiding officer of lok Sabha. He is elected from among its own members. He may resign at any time. He may be removed when a resolution is passed against him by a majority of the members of the lok sabha.

The normal term of the speaker is 5 years but a special feature of speakers office is the even when the house is dissolved the speaker does not vacates his office. He will continue in office until a new speaker is elected. The constitution also provides for a deputy speaker who performs the duties of the speaker when he is absent.

The speaker maintains the discipline and decorum in the house. He also decides the quorum of the House. Speaker protects the rights & privileges of the members. The speaker casts the vote only in case of tie. The office of the speaker carries immense prestige with it. Within the walls of the lok Sabha his voice is supreme & his position is equal to the judge of Supreme Court of India.

THE COUNCIL OF MINISTERS

The President being a constitutional Head, the real executive powers are exercised by a council of minister headed by the Prime-Minister. Art 74 of the Indian constitution provides for a council of ministers headed by the Prime Minister to aid and advise the President in the exercise of his functions.

Composition of the council of ministers:-The council of ministers includes the Prime Minister, cabinet ministers, ministers of state, and the deputy ministers. The Prime-Minister is appointed by the President. The other ministers are appointed by the President on the advice of the Prime Minister.

According to 91st amendment 2003 the number of members of council of ministers should not exceed 15% of the total membership of lokSabha

Features:-

1. **Principle of Cabinet System** : Constitution vested all the executive powers with the president. But he does not exercise them. All the executive action is taken in the name of president by the council of ministers.

2. **Executive: - A part of legislature** The cabinet (executive) is closely related to the parliament (legislature).It is essential for every minister to be a member of the parliament. If he is not he must become a member of either of the two hovers with in a maximum period of 6 month. Minister will attend the questions, introduce bills and participate in debates, discussions in the parliament. Thus both legislature and executive work together& the ministers who are the members of the parliament are also responsible to it.

3. **Collective responsibility:** - The council of ministers are collectively responsible to the parliament and to the electorate (voters). Ministers are collectively responsible as a body for the general

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policies of the government. Once decision is taken by the cabinet, the entire ministers are equally responsible for it. They should not express their differences of opinion.

4. Ministerial or Individual responsibility: - There is also individual responsibility of the ministers to the parliament. Each minister is individually responsible for his department. Ministerial responsibility to the parliament is ensured by several provisions such as questions in parliament, discussion on budget, adjournment motions etc.

5. Political Homogeneity: - It is an important feature for the successful working of the cabinet system. Since all the ministers belong to the same political party, their political opinions are identical and they can easily arrive at unanimous decisions. All decisions of the cabinet are based on the principle of political homogeneity.

Leadership of the P.M: The council of ministers is a team that plays the game of politics under the captaincy of the Prime Minister. The P.M is the leader of the majority party in the lower house and the ministers function under his leadership. The resignation of the Prime Minister means the resignation of the entire ministry.

7. Secrecy: -

The cabinet functions on the principle of secrecy. Discussion held in cabinet meetings are never made known to the people. The ministers may express their different points of view in cabinet meetings but once the decision is taken it becomes the decision of the country. The principle of secrecy is important for the maintenance of the principle of ministerial responsibility.

THE LEGISLATIVE PROCEDURE (LAW MAKING PROCEDURE)

The chief function of the Parliament is to make laws for the country. The Bills introduced and passed by the Parliament are of two types: Money (finance) bills and non-money (ordinary) bills. Ordinary bills can be introduced in either of the two houses. But money bills can only be introduced in the LS. An ordinary bill requires the consent of both the Houses of Parliament. In case of disagreement, the President may call a joint-sitting of both Houses. The speaker of the LS presides over such a joint-sitting or the decision is made by a simple majority of votes.

PROCEDURE FOR PASSING ORDINARY BILLS

All bills other than money bills are called ordinary bills. Both the houses have co-equal power to introduce an ordinary bill. Moreover, it can be introduced by private members (members other than ministers). Most of the ordinary bills are moved by the Ministers. Every ordinary bill in order to become an Act has to pass through the following stages.

Introduction and first reading: The draft of a proposed ordinary bill has first to be sent to the secretariat of the house in which it is to be presented. A month's notice is given to the speaker and the speaker includes the bill in the list of business and gives a date for its introduction. After the introduction, the bill is published in the gazette of India and the speaker allows of full debate at the time of first reading.

Second reading: The second reading consists of consideration of the bill. The mover of the bill may leave the bill for the consideration of the house, refer it to a select committee or circulate it for public opinion. The members of the house are free to debate but there will not be clause by clause debate over the bill.

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Committee stage: After the second reading, the bill is referred to a select committee. The mover of the bill suggests the names of persons who would constitute the committee. Generally the strength of the committee varies between 20 and 30. The committee makes a thorough scrutiny of the bill and suggests useful changes.

Report Stage: The report of the committee is laid before the house and will be circulated among the members. If the house accepts the bill, the same is put to another reading. The bill is discussed thoroughly clause by clause.

Third Reading: Third reading is the last stage and the bill as a whole is discussed and arguments in favor and against it are expressed. But no substantial changes are allowed. If the bill is passed by a majority of members present and voting, the bill goes to the other house. The same procedure is followed in the other house. If it is passed in the other house, it's sent to the President for his assent. If the other house disagrees, the President summons a joint-sitting. The bill is considered if it gets the required majority.

ASSENT OF THE PRESIDENT

Every bill in order to become an Act requires the assent of the President. She may either give her assent or return it for reconsideration with both the houses again with or without changes, the President has to approve. After the assent, the Act is published in the gazette of India.

PROCEDURE FOR PASSING MONEY BILLS

A money bill (budget) can originate in the LS. At the beginning of every financial year, the budget showing the estimated income and expenditure shall be laid before the Parliament. The union budget is presented in two parts- Railway budget and General budget.

The first is presented by the railway minister and the second by the finance minister. The procedure of passing both types of budgeting is identical. The budget is discussed by the whole house with the speaker in chair. The budget and other finance bills including tax proposals can be delayed by the Rajya Sabha for a period of 14 days only. After that the bill shall be presented to the President for assent. The President must approve because the Presidential veto does not apply to the money bill.

STATE GOVERNMENT

Governor:

The machinery of the state government is organized on the Parliamentary model like that of the union government. The Governor is the constitutional head of the state government. He is also the representative of the central government and is a link between union and the state government. Each state has a Governor. However a common Governor may be appointed for two or more states including one or more union territories.

Qualification:

To be eligible for appointment as Governor one must have the following qualifications.

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- + A citizen of India.
 - + Above 35 years of age.
 - + Must not hold any office of profit under the union or state government.
 - + Must not be a member of the parliament or a state legislature,
- Besides there are the 2 unwritten conventions

followed in the appointment of Governor;

- + He must not belong to the state where he is appointed.
- + The Chief Minister of the state must be consulted before the appointment of the governor.

Term:

The Governor is appointed by the President of India for a period of 5 years. He holds the office during the pleasure of the President. He may be transferred from one state to another state. His term may be extended also.

Powers and functions of the Governor

Executive powers:

The executive powers of the state are vested with the Governor. All executive actions of the state are carried out in his name.

The Governor appoints the leader of the majority party in the state legislative assembly as the Chief Minister. On the advice of Chief Minister, he appoints the Council of Ministers. The Governor makes important appointments including those of Advocate General, the chairman and members of the State, Public Service Commission, Vice Chancellors of universities etc., and the Governor is the Chancellor of all the universities in the states.

Legislative powers:

Though the Governor is not a member of state legislature yet he is an integral part of it. Following are his legislative functions,

- + The summons and prorogues the sessions of the state legislature. He can dissolve the state legislative assembly.
- + He can address either house or both the houses of state legislature together. The 1st session after the general election of the state legislature and the 1st session of every year begin with his inaugural address.
- + He can nominate members of Anglo Indian Community to the legislature assembly. He also nominates 1/6th of members to legislative Council.
- + The bills passed by the state legislature are subject to his assent.
- + He may also reserve certain bills for the consideration of the president which involve constitutional validity
- + When the legislature is not in session he may promulgate ordinances to meet the extra ordinary situations.
- + He may send messages to the House or Houses on a bill pending in the legislature.

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Financial powers:

A money bill can't be introduced in the legislature assembly without the recommendations of Governor. The Governor can grant permission to use the contingency fund of state for urgent expenditure, when the legislative sanction is not available.

Judicial powers:

The Governor determines the question of appointments and promotion of district judges and other judicial officers of the state. He also has the right to pardon to any person convicted of any offence. He enjoys personal immunity from all civil and criminal proceedings during the term of office.

Emergency powers:

The Governor can report to the President of India regarding the break down of constitutional machinery in the state and recommend the imposition of state emergency. While the state emergency is in operation the Governor acts as the representative of the President and he is responsible for the administration of state.

Discretionary powers:

The Governor enjoys certain discretionary powers which are independent from the advice of the council of ministers. They are;

- + In case the President appoints a Governor as an administrator of a union territory, he shall exercise his functions independently.
- + The Governor of Assam has discretionary power with regard to the administration of the tribal areas of state.
- + The Governor of Nagaland has a special responsibility pertaining to law and order in the state.

Position of Governor:

Under normal circumstances the Governor has to act according to the advice of council of ministers headed by the Chief Minister. Only under abnormal circumstances like the breakdown of the constitutional machinery, he can exercise his discretionary. Even when acting as the representative of the centre, he has to exercise his power according to the direction of the President. Thus the Governor is never a master of the situation. He has to dance to the tunes of the central government. However as the head of the state he has the right to be consulted, the right to encourage and the right to warn. &he stands above party politics.

The Chief Minister

The Chief Minister is the real executive head of the state government. His position is equal to that of the Prime Minister of India in the central government.

Appointment

The Governor appoints the Chief Minister of his state. Under normal circumstance the Governor invites the leader of the majority party in the state legislature assembly to form the government.

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However, if so single party gets a clear majority, then the government uses his discretionary power in the choice of the Chief Minister.

Power and functions of the Chief Minister:

Formation of ministry

The 1st function of the chief minister after his appointment is to constitute the council of ministers. The Governor appoints the ministers on the advice of the Chief Minister & he may include any member in the team of his ministry. He also distributes portfolios to the individual minister's according to his own choice. The resignation of the Chief Minister is considered as the resignation of all the ministers.

Head of the Government

Although the Governor is vested with vast executive powers, in practice he acts according to the advice of Chief Minister. Thus the Chief Minister is the real head of the government. All major policies and decisions of the government are virtually made by the Chief Minister.

Chairman of the Cabinet

As the chairman of the cabinet the Chief Minister fixes the date of its meetings, its agenda and presides over its meeting. He also takes important cabinet decisions.

Link between Governor and the Cabinet

The Chief Minister acts a link between Governor and the cabinet. Accordingly he communicates to the Governor all the decisions of the cabinet.

Leader of the legislature

The Chief Minister acts the leader of the state legislature. The ultimate responsibility for the smooth running of the government in the legislature belongs to the Chief Minister. He is the chief spokesman of the government in the legislature.

Makes major appointments

All major appointments in the states are made on the recommendations of the Chief Minister. These appointments are made by the Governor but on his advice.

STATE LEGISLATURE

The Constitution provides for the establishment of legislature in every state. The state legislature consists of the governor and one or 2 Houses. In India some states are following bicameralism and some other states are following unicameralism. At present only 5 states namely Bihar, Maharashtra, Karnataka, Uttar Pradesh and Jammu and Kashmir are having bicameral legislature. All other states have only one house where the legislative Assembly [Vidhan Sabha]. The states having bicameral legislature consists of 2 Houses..... the lower House is legislative Assembly and the Upper House is legislative Council [Vidhan Parishad].

LEGISLATIVE ASSEMBLY

The constitution of India provides for Parliamentary system of government even at the state level. Accordingly every state should have a legislative Assembly. It is a popular House consisting of members directly elected by the people.

Composition:

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According to the constitution, Legislative Assembly should consist of not more than 500 and not less than 60 members. These members are directly elected by the people. The strength of the legislative Assembly is fixed in proportion to the population of the state. The Governor can nominate one or 2 members of Anglo Indian Community to the legislative Assembly.

Term:

The legislature Assembly has a term of 5 year. However while a proclamation of emergency is in operation the term of the Assembly may be extended not exceeding one years at a time.

Qualifications:

In order to become a member of Vidhan Sabha one must be,

- ✚ An Indian citizen.
- ✚ Attain 25 years of age
- ✚ Must fulfill every other qualification as laid down by the parliament of India.

Powers and functions of legislature Assembly

Legislative Powers:

The state legislature has power to make laws on the entire subjects inculcated in the State List and the Concurrent List. All ordinary bills can be introduced either in the legislative Assembly or the legislative Council. But it has to be passed by both the houses to become a law.

If an ordinary bill is introduced and passed by legislative Assembly then it is sent to legislative Council. The council can delay its approval only for a month.

Financial Powers:

Regarding the financial matters the legislature Assembly is the supreme authority in the state. All money bills must originate in legislature Assembly, if the money bill is passed by the council within 14days. Then it is sent to the Governor for his assent. If the council suggests certain changes in the bill, then the bill is reconsidered by the legislature Assembly. But the legislature Assembly is free to accept or reject the changes suggested by the Council.

Executive Powers:

The executive powers of the legislative Assembly is to control the state executive. The council of ministers is collectively responsible to the legislature assembly. The assembly can remove the council of ministers by passing a vote of no confidence. It can also control the executive by asking question, introducing adjournment motions etc.

Other powers:

The elected members of the state legislative Assembly participate in the election of the President of India along with the elected members of Union Parliament.

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Certain amendment passed by the union parliament also requires the scarification by the state legislative Assemblies.

The Legislative Council (Vidhana Parishad) rajya sabha

Organization:

The legislature Council is the Upper House of the state legislature. The constitution provide that the legislature Council of any state shall not have less than 40 members and not more than one third of total membership of the state Legislative Assembly. All the members of Legislative Council are not elected by the same electorate. Its members are indirectly elected in the following manner;

- ✚ 1/3rd of the members are elected by legislature Assembly of the state.
- ✚ 1/3rd of members are elected by local self governing bodies.
- ✚ 1/12th if its members are elected from the teacher's constituencies.
- ✚ 1/12th of its members are elected from graduate's constituencies.
- ✚ Remaining 1/6th of members are nominated by the Governor on the basis of their experience and special knowledge in the fields of art, literature, science, social service, education, co-operative movements etc.

Qualification:

To become a member of Legislature Council one must have the following qualifications;

- ✚ He must be a citizen of India.
- ✚ He must have completed 30 years of age.
- ✚ He should not be a member of the union parliament or the state legislature assembly.
- ✚ He must possess such other qualifications as may be prescribed by the parliament from time to time.

Term:

The legislature council like the Rajya Saba is a permanent chamber. It can't be dissolved by the Governor .However the term of a member is 6 years& 1/3rd if its members retire every 2 years after completing their term and the same numbers of members get elected to the legislature Council.

Powers and functions

Legislative functions:

A non money bill can be introduced in either of the 2 Houses of state legislature. The assent of the legislature Council is necessary before it becomes a law. When a bill reaches the council for the 1st time after passed by the Assembly, it may reject the bill or suggest recommendations to the bill or pass the bill as sent by the Assembly. When a bill is passed by the Assembly with or without amendments for second time, the Council has to approve the bill within a month.

Executive powers:

The legislative Council also controls the council of ministers headed by the chief minister. But the legislative council can't remove the ministry by passing a vote of no confidence against it.

Financial powers:

Money bill can't be introduced in the legislative Council. After the money bill has been by passed by the legislature Assembly it is sent to the legislature council. The council is required to return the bill with or without recommendation within 14 days if it fails to do so it becomes a law after the laps of 14 days. The Assembly is free to accept or reject the recommendations of the Council.

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Indian Federalism:

Modern political systems are classified as unitary and federal. The unitary government means a single government in which all the powers are concentrated. For eg: government of U.K.

Federal system means a nation having 2 sets of governments in which powers are distributed between union and state government. For eg: U.S.A.

Indian adopted a federal form of government with a strong central government. It is federal in structure but unitary in spirit.

Professor **K.C.Wheare** has described India as “**quasi-federal state**”. Because it combines the features of federal and unitary system.

Chapter 5

Federal features of Indian system:

1. **2 sets of government:** there are 2 sets of government in India- the central government & the state government. The governments are formed as per the provisions of the constitution.
2. **Division of powers:** there is a clear distribution of powers between the central government and state government. There are 3 lists by which law making powers have been distributed. They are:
 - a. **Union list:** The union list contains 97 subjects of national importance and only the central government can make laws on the subjects mentioned in the union list. Some of the important subjects are national defense, foreign affairs, war and peace, trade and commerce with other countries, railways, post and telegraph, currency and foreign exchange, etc.
 - b. **State list:** contains 66 subjects and the state government may make laws in respect of matters mentioned in state list. Some of the important subjects are – public order and police, local government, public health, forests, production and sales of intoxicating liquor, trade and commerce within the state etc.
 - c. **Concurrent list:** it contains 47 subjects over which both central and state government can make laws. But in case of conflicts, the will of central government prevails over the state government. The important subjects mentioned in concurrent list are – civil and criminal laws, preventive detection, marriage and divorce, trade unions, labor welfare, education, social security and insurance, etc.
3. **Supremacy of the constitution:** if the constitution is supreme law of the land. No one is above the law of the constitution. All citizens, branches and agencies of the government must act according to the provisions of the constitution.
4. **Supremacy of the judiciary:** The judiciary enjoys supreme power in India. The Supreme Court is the apex court. It has the right to interpret the constitution and to resolve the disputes between the central and state government. The Supreme Court also acts as guardian of the constitution.

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5. **Existence of second chamber:** The Rajya Sabha is the federal second chamber in India. It represents different state in the national government.

Unitary features of Indian constitution:

1. **Strong Central Government:** Even though there is division of powers, the constitution favors a strong central government. The union list contains more important and a larger number of legislative subjects. Even the residuary powers [powers which are not mentioned in the constitution] are given to the central government.
2. **Appointment of Governor:** The President of India appoints the Governors of the states with the advice of central government. The Governor acts as a representative of the central government in the state.
3. **Emergency Powers:** The President of India with the advice of central government can declare 3 types of emergencies& when an emergency is declared the central government can take over all the powers of the state government.
4. **Single Citizenship:** There is no provision for double citizenship. The people of India get only single citizenship. Accordingly, everyone is an Indian citizen.
5. **Single Judicial System:** there is a single integrated judicial system for the entire nation. There is no separate judiciary for the states. The High Courts of the state function as branches of the Supreme Court.
6. **Single Election Commission:** the entire nation has a single election commission. The parliamentary and state elections, the election of the president and vice-president are conducted under the supervision of a single election commission.
7. **State dependency on the central government:** The states are dependent on the union government in financial matters. The central government provides financial assistance to the needy states. Even the central government is empowered to give directions to the state regarding executive matters.
8. **Central control over administrative services:** central government has full control over all India services like IAS, IPS and IFS etc.

Thus India is a combination of federal and unitary system. The Indian federal structure is central oriented. Nowhere in the Indian constitution is the word “federation” used. Instead India is described as Union of States. To conclude we can say that **India is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features.**

Coalition Politics

The operation of coalition politics has become almost inevitable in India at the national as well as state politics. The decline of the single party domination (congress) since 1967 paved the way for the increasing

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popularity of coalition politics. Coalition government refers to the formation of government with a combination of two or more political parties having common interests and understandings.

Conditions necessary for the working of coalition politics

- Common ideological base, common interest and understanding.
- Adequate democratic representation for all coalition partners.
- Democratic decision making and common consensus.
- Commitment among political parties to put the interest of the nation above their personal interests.
- Common Minimum Program.

Merits and Defects

Merits

- Provides alternative possibilities or government when no single party gets the majority.
- Represents the diverse or plural interests of the society.
- Protects the diverse regional interests.
- Prevents the autocratic rule of one party.

Defects

- Difficulties in bringing understanding because of ideological differences.
- Governmental instability and ineffective.
- Difficulties in taking quick and effective decisions during emergencies.

Coalition at the National and State politics:

Examples:

- First Coalition at the centre 1977 -----coalition partners
- Lok Dal, congress 0, Jan Singh and Janata party (1977 – 1980)
- National front coalition 1989 -1991 (Jana Moreha, Janatha Party, Lok Dal , BJP).
- United Front Government (1996 – 1998) JD, CPI, CPM, DMK, TDP, TMC ,etc.

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- BJP led coalition 1998- 1999.
- National Democratic Alliance Government (1999 – 2004).
- United Progressive alliance since 2004.

While the coalition politics at the central level has been relatively recent phenomenon, at the state level it has been in operation since 1952. The formation of coalition governments are common in the states of Maharashtra, Karnataka, Goa, West Bengal, U.P, M.P and North Eastern States.

THE JUDICIARY

The judiciary is the 3rd important organ of the government whose primary function is to interpret the laws and administer justice. The constitution of India provides for an integrated or a single judicial system for the entire country. Supreme Court of India stands at the apex of the judicial system for every state there is a high court. There are other courts at the regional level like the district courts which work under the supervision of the high courts.

The supreme court of India:

The Supreme Court is the highest of the apex court in India. At present Supreme Court consist of a Chief Justice and 25 other judges. The power to decide the number of judges is given to the parliament by the constitution therefore the number of judges keep varying form time to time.

All the judges including the Chief Justice are appointed by President of India in consultation with the cabinet. In practice the senior most judge of Supreme Court is appointed as the Chief Justice of India. While appointing other judges the Chief Justice should be consulted by the President.

Qualification:

Any person to become a judge in the Supreme Court should possess the following qualification.

- ✚ He must be a citizen of India.
- ✚ He must have served as judge in one of the high court for a minimum of 5 years.
- ✚ He must have worked as a lawyer in any of the high court for a minimum period of 10 years.
- ✚ He must be a talented and legal expert in the opinion of the President of India.

Term:

The judges of the Supreme Court retire at the age of 65. A judge may resign at any time by submitting his resignation to the President of India.

Removal:

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The construction prescribes a difficult method of impeachment to remove the judges. To remove a judge, each House of Parliament should pass a resolution supported by 2/3rd majority of members present and voting. This impeachment resolution is sent to the President for his signature. Judges can be removed only on the ground of their proved misbehavior.

Salary and Allowance:

The Chief Justice receives a salary of Rs.33000 and other judges get 30000 per month. Along with this the judges are entitled to get traveling allowances and other benefits where judges hold the office. Their salary can be raised but can't be reduced except during a financial emergency. Their salaries and allowances are drawn from the Consolidated Fund of India.

Powers and Function of the Supreme Court:

Original Jurisdiction:

Original jurisdiction means the power to hear and decide a dispute in the first instance. Accordingly the Supreme Court under original jurisdiction decide the dispute.

- Between government of India and one or more state.
- Between government of India and one or more states on the one side and one or more states on the other.
- Between 2 or more states

The original Jurisdiction of Supreme Court also includes the cases of violation of Fundamental Rights and the disputes arising out of election of President and Vice President.

Appellate Jurisdiction:

The Supreme Court is the highest court of appeal in India. It revives appeals from high courts and other tribunals in the state. The appellate jurisdiction of the Supreme Court includes civil and criminal and constitutional cases.

Advisory Jurisdiction:

The President of India may seek the advice of Supreme Court on any matter of public importance. The Supreme Court on such cases gives legal advice to the president. The president may accept or reject the opinion of Supreme Court

A Court of Record:

This means the proceedings, acts and decisions of the Supreme Court are kept in record. The records preserved by the Supreme Court have the value of evidence. Once a court is made as a court of record by laws, it has the power to punish for its own contempt. This is known as contempt of court.

Guardian of Fundamental Rights:

The Indian constitution has guaranteed a number of Fundamental Rights to its citizens. If a law passed by the legislature violates the Fundamental Rights of the people, then the Supreme Court declares that law as unconstitutional. Thus, the Supreme Court protects the Fundamental Rights of the people.

Guardian of the Constitution:

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The Supreme Court is the highest authority to interpret the constitution. If a law passed by the parliament violates the provision of constitution, the Supreme Court declares such law as null and void (unconstitutional). Thus, by its power of judicial review, the Supreme Court protects the constitution.

HIGH COURTS

The constitution of India provides for a High Court for each state. However the Parliament is vested with the power of establishing a common high court for 2 or more states or union territories. For e.g. there is a single High Court at Chandigarh for Punjab and Haryana. At present there are 21 High Courts in India.

Composition:

High Court consists of a Chief Justice and a number of other judges who are appointed by the president of India. The number of judges varies from one High Court to another. The President of India from time to time fixes the number of judges in each High Court.

The President consults the Chief Justice of Supreme Court and the Governor of respective states while appointing the constitutional justice of every High Court while appointing the other Judges of the High Court. The President consults the constitutional justice of the concerned High Court.

Qualification

A person to be appointed as a judge of High Court must possess the following qualifications:

- Must be a citizen of India.
- He must have served as a judge in any court of India for minimum of 10 years.
- He must have worked as an advocate of a High Court in any state for not less than 10 years.

Term:

A High Court judge retires at the age of 62 years. He can be removed from his office by the President for proved misbehavior or inefficiency for that a resolution must be passed by both the houses of parliament by 2/3rd majority of members present and voting.

Salary and Allowances:

At present the constitutional justice a High Court retires a salary of Rs.30000 per month. Where as other judges addition they are given various other facilities and pension benefit.

Power and Functions of High Court (Jurisdiction)

Original Jurisdiction:

High Court has no original jurisdiction regarding criminal cases. According to civil cases it enjoys original jurisdiction on the following cases.

- Enforcement of Fundamental Rights.
- Disputes relating to elections to union and state legislature.
- Cases relating to will, marriage, divorce and contempt of court.

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Appellate jurisdiction

High Court is highest court of appeal in the state. Appeal can be made to the high court against the judgments of the subordinate courts it deals with appeals in both civil and criminal matters. In civil matters the High Court receives appeal against the decision of district court. In criminal matters it receives appeals against the decision of the session court.

Court of record:

High Court also acts as a court of record. All the proceedings and decisions are recorded by it for future references. The High Court has also the power to punish for contempt to itself.

Administrative powers:

The High Courts are empowered to supervise the courts which are subordinate to them. It frames rules and regulations for the proper working of these courts. The high court also appoints its own administrative staff.

Protection of Fundamental Rights:

High Court also enjoys the powers of judicial review with regard to the state laws. If any law passed by the state government is against to the Fundamental Rights of people then the High Court declares such law as unconstitutional. Thus it protests Constitutional and Fundamental Right of the people.

JUDICIAL REVIEW

It means than the powers of Supreme Court & High Courts to review the legality or constitutionally of the laws made by the union or state legislature or orders passed by the executive. Thus the judiciary can declare any law made by the legislature or orders passed by the executive as null and void or unconstitutional if it violates the provisions of the constitutional.

PUBLIC INTEREST LITIGATION

A petition filed before the court by an individual or an organization in the interest of general public is termed as public interest litigation.

The matter could be raised even without formally filing suit. The ease can be filed even by a letter or telegrams. In PIL the third party though not directly affected, has got the right to move to the court for the redressal of a wrong or for a relief. PIL is very useful especially for poor, helpless, disabled, socially and economically disadvantaged due to their poor economic condition. However to file a case under PIL the case grievance must invoke some public or community interests. The member who approaches court must not be politically motivated or represent private interests.

In recent days, PIL are increasing. There are number of instances, where PIL brought relief to the aggrieved persons.

Examples:

1. Supreme Court on custodial deaths and torture declared that a relative of the arrested must be informed on the nights of the arrested must be protected in the police station.
2. A Mumbai cardiologist Dr Sandeep Rane, filed a public interest litigation case against the civil administration to focus on bad road conditions. Mumbai high court setup a road monitoring commission to look into the issue.

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3. In Sunil Bhatra's case court declared that even a letter addressed by a prisoner of a jail complaining of brutal attacks by the jail warden will be considered as writ petition.
4. State of Himachal Pradesh versus Umed Ramsharma Supreme Court declared that A21 includes not only physical existence but also a quality life. For the residents of hilly areas, access to road is access to life itself.
5. Paramanand katara versus Union of India case, Supreme Court stated that under A21, states have the obligation to promote human life. In public health centers and hospitals a doctor must be positioned duty bound to extend medical services to protect life.
6. Vishaka versus state of Rajasthan A21 Supreme Court held that the harassment of working women would be violating of the right to life.
7. Murali Deora versus Union of India, Supreme Court directed the Union and State Governments to ban smoking in public places as non smokers should not get affected by the ill effects of smoking.

JUDICIAL ACTIVISM

Judicial Activism is a recent trend. The term is associated with judiciary for its active exercise of constitutional powers. Judicial activism also implies the intervention of the judiciary in the executive and legislative spheres when they fail to exercise their constitutional responsibilities. Therefore judicial activism refers to judiciary taking the responsibilities of legislature and executive when they become inactive. In recent days judiciary particularly, the Supreme Court made some historic judgments regarding the functioning of bureaucracy, human rights violations, parliamentary behavior, and civic life of the people, environmental degradation and socio-economic and political problems of the country. Along with these judiciary is very active in entertaining PIL and organizing Lok Adalats to impart speedy justice to the people. Following are some of the historic judgments made by the court symbolizing its activeness in protecting constitution as well as the fundamental rights of the citizens:

1. In 1990 Supreme Court issued directions to the government of India to check the evil of child prostitution.
2. Regarding Narmada dam controversy, Supreme Court ruled that the height of the dam could be increased only by making the required rehabilitation arrangements for the victims.
3. Supreme Court in a historic judgment declared that doctors and lawyers should not strike on the grounds that their services are essential
4. In the year 2005 Supreme Court ruled that reservation should not exceed 50% in the government sector and it's voluntary in the private sector in job opportunities.
5. Supreme Court rejected the demand of the state govts of Tamilnadu, Maharastra and West Bengal for establishing separate divisional bench of the Supreme Court in kolkata, Chennai and Mumbai.
6. Very recently Karnataka High Court ordered the Karnataka government to conduct the local self government elections prior to September 2007.
7. In the same way Supreme Court and High Courts ordered the government of India and state governments respectively to take necessary steps to protect the interests of weaker sections, minorities, and for maintaining environment and law and order.

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HUMAN RIGHTS

Meaning:

Human beings by virtue of their being human possess certain basic and inalienable rights. These rights are generally known as human rights. The human rights protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. Every human being on the earth irrespective of his caste, creed, religion, race, sex, nationality and age is entitled for such as right to live, liberty, equality etc.

Human rights are the natural rights given by the nature to the people to live with human dignity, self-respect and liberty. Thus all those rights, which are essential for the maintenance of human dignity, may be called as human rights.

Origin and development of human rights

The origin of concept of human rights may be traced as far back as in Babylonian laws Greek laws, roman natural laws, and Buddhist text. The ancient Greek city-states have provided freedom of speech, right to vote, etc. the Roman law “**JUS CIVILE**” also secured similar rights to the Romans.

The 1776 American and the 1789 French declaration of independence represent important steps in the historical evolution of human rights.

Article-1 of the French declaration of the rights states, “All men are born and remain free and equal in their rights.

In the 19th century many convections like Vienna congress of 1815, Brussels congress of 1880, etc. helped to the universalisation of human rights. The codification of international humanitarian law, the establishment of international committee of the Red Cross and Geneva convection of 1864 were crucial events in this regard.

The establishment of League of Nations after the 1st world war has further developed the human rights in the international sphere. The league was especially active in the protection of the rights of the laborers. It also succeeded in establishing international labour organization (ILO) in 1919.

The horrors of 2nd world war led to the birth and recognition of the modern human rights movement. The UNO came into existence on 24th October 1945. On the midnight of December 10th 1948 the general assembly of the United Nations adopted the universal declaration of human rights.

In the year 1966 marked yet another landmark in the history of mankind with the adoption of 3 famous covenants by the general assembly. They are:

- Covenant on civil and political rights.
- Covenant on economic and social rights.
- Covenant against all kinds of racial discrimination.

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Another milestone in the human rights is holding of world conferences. The 1st such conference was held in San Jose, Costa Rica in 1982, the 2nd in Senegal in 1986, the 3rd one in New Delhi in 1990 and 4th in Vienna in June 1993.

Universal Declaration of Human Rights:

On December 1948 the general assembly of UNO adopted and proclaimed the Universal declaration of human rights. The list of human rights elaborated in the declaration provides a common standard of achievement for all people and all nations. Considering the world wide historic signification of this declaration 10th December is observed as the world human rights day every year.

According to article-1 "declaration," all human beings are born free and equal in dignity and rights". They are empowered with reason and conscience and should act towards one another in a spirit of brotherhood.

The rights mentioned in the declaration may be grouped into 2 categories:

- Civil and political rights.
- Economic and social rights.

Civil and political rights:

A-2 to A-21 deals with the civil and political rights, which are as follows;

- Right to life, liberty and security.
- Freedom from slavery and slave trade in all forms shall be prohibited.
- Prohibition of future in human or regarding treatment or punishment.
- Right to recognition as a person before law.
- Right to equality before law and equal protection of the law without any discrimination.
- Effective remedy before national tribunals.
- Freedom from arbitrary arrest and detention.
- Presumption of insolvency until proved guilty in a public trial, with all guarantees necessary for his defense in criminal cases.
- Right to privacy, family, home and correspondence.
- Right to nationality.
- Right to marriage and have a family.
- Right to own property.
- Right to freedom thought, conscience and religion.
- Right to freedom of peaceful assembly and association.
- Right to participate in the government or political activities of the country.

Economic and social rights:

A-22 to A-27 of the declaration deals with economic and social rights. They are:

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- Right to social security.
- Right to work and free choice of employment.
- Right to standard of living, adequate for the health and well being of himself and his family.
- Right to education.
- Right to participation in cultural life.
- Right to good social and international order.

A-29 provides that everyone has duties to the community in which alone the final and full development of his personality is possible. The rights provided in the declaration are subjected to the just requirement of morality, public order and the welfare of a democratic society. Thus the rights provided in the declaration are not absolute.

SECULARISM

India is a secular state. Secularism is the basic structure of our plural society. Guided by the fact of pluralist character of Indian society, the framers of our constitution decided to adopt secularism as a key objective of the Indian policy. Later on the 42nd amendment act passed in 1976 added the word “secular” to the Preamble of our constitution.

Secularism in India implies two things:

- a) Negatively, Secularism implies the absence of a state religion.
- b) Positively, it means equal treatment to all religions and religious freedom to all eligible citizens.

Secular aspects of the Indian state:

- Preamble: The Preamble of the constitution of India declares India to be a secular state.
- Equal citizenship and equal Fundamental rights to all.
- Right to Equality and equal protection of law (Article 14 to 18)
- Right to Freedom of Religion and Equality of all Religions (Article 25 to 28).
- Cultural and Educational Rights of minorities (Article 29 and 30).
- Joint Electorate and Universal Adult Franchise.
- Protective Discrimination (Reservation Policy) based on Social Justice.

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RESERVATION POLICY: Equality or discrimination? Justice or Injustice? how long?

Merits

1. Attempt of promoting socio-economic justice
2. Positive discrimination-discrimination or injustice or inequality to promote and to establish justice.
3. Humanitarian agenda-an attempt to bring the backward people to the mainstream of Indian society.
 - An attempt to develop their personality by improving their economic position and living-standards.
4. Equalitarian society- Without reservation policy Dalits would not be in a position what they are though their position is still not sound.

Defects

1. The possibility of misuse - critics argue that the benefits of reservation have not touched the needy.
2. Caste conflict and division ultimately lead to social unrest.
3. Increases inefficiency by denying opportunities for the talented (against the merit system).
4. Contrary to the constitutional principle of equality.
5. Emergence of a new class called lower middle class.
6. Reservation has become the 'political password' of many parties in India. Political parties are using it for their own vested interests or VOTE BANK politics.

Special Rights for Backward Classes and Minorities

The Charter lays down special provisions for safeguarding the interests of SC STs and minorities in order to import social and economic justice to them.

CONSTITUTIONAL SAFEGUARDS

1. Article 15 provides that state shall not discriminate any citizen as the grounds of religion, race, caste, sex and place of birth.
2. A 16 provides equality of opportunities in matters of public employment.
3. A 17 abolishes the practices of untouchability (untouchability offences Act 1955)
4. A19 guarantees Right to Freedom for all eligible citizens and A19(5) discloses that tribals can own property and enjoy it in any part of the territory of India.
5. A 29 says, no citizen shall be denied admission in institutions maintained by state funds on the grounds of religion, language or caste.
6. A 46 provides that the state shall promote the economic and educational interests of the weaker sections and in particular of the SCSTs and shall protect them from social injustices and also forms of exploitation.

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7. Reservation of seats in the legislature (Lok Sabha 79 and Rajya Sabha 40) and state legislative Assemblies for people belonging to SCSTs (A 330, 332 and 334).
8. A 338 empowers the central govt to appoint special commissions to protect the interests of weaker sections and minorities. At present there are commissions like National Commission for SCSTs and National Commission for Backward Classes and minorities.

Under A 341 and 342, the central govt can declare any tribe or caste as backward in any state.

A 29 and 30 empower the minorities both linguistics and religions minorities to protect this culture and to have their own educational institutions.

A 25 to 28 guarantee religious freedom to all citizens.

A 350 provides that it shall be the duty of the state govt to make proper arrangements to give instructions in the mother tongue for children in primary education.

Reservation Policy

The Govt of India introduced reservation policy in education and employment. Accordingly, 27% of the OBC classes, 15 % of the posts for SCs and 7% for STs.

Educational facilities for people belonging to SC, ST and OBCs – free training, coaching, books, scholarships, hostels etc.

Institutional support - National Commissions for SC, ST and OBCs, minorities, Indian Depressed Classes League, Harijan Sevak Sangh, Indian Red Cross Society, DSS etc.

PARLIAMENTARY COMMITTEE SYSTEM IN INDIA

In a parliamentary system, the legislature has to lay down governmental policies, make laws and oversee administration. But the enormous range and complexity of legislature and administrative functions of a modern state make it almost impossible for the legislature to adequately scrutinize legislative proposals and oversee administrative section. This required task is performed by an expertise body in the formal parliamentary committees. It becomes difficult for Parliament to examine many complex issues and administrative action.

Parliamentary committees are appointed by the respective houses on a motion made or nominated by their presiding officers. Broadly speaking, these committees are of two kinds- Standing committees and ad hoc committees. The standing committees are appointed every year or periodically and their work goes on more or less on a continuous basis. The ad hoc committee is appointed when the need arises. They cease to exist as soon as they complete the work assigned to them.

STANDING COMMITTEE- Among the standing committees, the three financial committees, viz., committee on public accounts, Estimates committee and committee on public understanding occupies a prominent place.

Different Standing Committees are as follows:

Financial Committee:

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Public Awareness Committee: PAC consists of 15 members elected by the Lok Sabha and 7 associate members elected by the Rajya Sabha. It scrutinizes the Appropriation Accounts of the Govt of India and the reports of CAG of India. The committee ensures that public money is spent in accordance with Parliament's decision. It also brings out any evidence of waste, corruption, inefficiency or deficiency in the conduct of the nation's financial affairs.

2) **The Estimates Committee:** The EC consists of 30 members of the LS elected in every year. The chairman of the committee is appointed by the Speaker amongst its members. It discharges the following functions:

- 1) It examines whether the money is laid out within the limits of the policy implied in the estimates.
 - 2) It suggests form in which the estimates shall be represented to parliament.
 - 3) It suggests alternative policies in order to bring about efficiency and economy of the administration.
- 3) **The Committee on Public Undertaking:**

The Committee consists of 15 members (10 from LS and 5 from RS). The Chairman of the committee is appointed by the Speaker. It checks the accounts of public undertakings and the reports of CAG.

Departmental committees:

There are several departmental committees covering amongst them all the ministers and the departments of the Govt of India. Their functions include:

- To consider the demands for grants of respective ministries and departments.
- To examine the bills referred by the chairman of Rajya Sabha and the Speaker of Lok Sabha.
- To consider the annual reports of the ministers. Some of the departmental committees are: committees on commerce, home affairs, human resources, industry, transport and tourism, communication, defence, energy, finance and external affairs.

c) House committees:

Following are the major house committees performing the day-to-day business of the house.

- **Business Advisory Committee:**

In the Lok Sabha, the BAC consists of 15 members with the Speaker as the chairman. In the Rajya Sabha, it consists of 11 members including the deputy chairman. The function of the committee is to recommend the time that should be allotted for legislative business.

- **Committee on private member bills and resolutions:**

It considers all the bills and classifies them as 'important' and 'less important' and allots time for their discussions in the house. It also examines constitution amendment bills and resolutions about which the house receives notice from private members.

- **The select Committee:**

The strength of the committee is not fixed and varies according to the nature of work. The members are appointed by the house and the committee examines every bill and collects all data necessary to it.

- **The rules committee:**

It is nominated by the speaker and he is the chairman. It considers carefully the procedure of the house and conduct of its business and suggests change whenever it becomes necessary. It also considers the various rules and regulations of the house and suggests modifications in the old ones.

- **Enquiry committee:**

- 1) **committee of privileges:**

each house of Parliament and its committees and individually enjoys certain privileges and wherever a question of violation of these privileges arises, the matter is referred to this committee.

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- Committee on petitions:

The function of the committee on petitions is to examine every petition presented to the house and reporting to house about the complaints made in the petitions.

II Ad hoc Committees:

It includes:

- a) The joint committees on bills which are appointed to consider and report on particular bills.
- b) Committees which are constituted from time to time either by the two houses on a motion adopted by the speaker to inquire into a report on specific subject.

State Reorganization

The reorganization of the states based on language, a major aspect of national consolidation and integration, came to the fore almost immediately after independence. The boundaries of provinces in pre-1947 India had been drawn in a haphazard manner as the British conquest of India had proceeded for nearly a hundred years. No heed was paid to linguistic or cultural cohesion so that most of the provinces were multi-lingual and multi-cultural. The interspersed princely states had added a further element of heterogeneity.

The case for linguistic states as administrative units was very strong. Language is closely related to culture and therefore to the customs of people. Besides, the massive spread of education and growth of mass literacy can only occur through the medium of the mother tongue. Nehru appointed in August 1953 the States Reorganization Commission (SRC), with Justice Fazl Ali, K.M. Panikkar and Hridaynath Kunzru as members, to examine 'objectively and dispassionately' the entire question of the reorganization of the states of the union. Throughout the two years of its work, the Commission was faced with meetings, demonstrations, agitations, and hunger strikes.

Different linguistic groups clashed with each other, verbally as well as sometimes physically. The SRC submitted its report in October 1955. While laying down that due consideration should be given to administrative and economic factors, it recognized for the most part the linguistic principle and recommended redrawing of state boundaries on that basis. The Commission, however, opposed the splitting of Bombay and Punjab. Despite strong reaction to the report in many parts of the country, the SRC's recommendations were accepted, though with certain modifications, and were quickly implemented.

The States Reorganization Act was passed by parliament in November 1956. It provided for fourteen states and six centrally administered territories. The Telengana area of Hyderabad state was transferred to Andhra; merging the Malabar district of the old Madras Presidency with Travancore-Cochin created Kerala. Certain Kannada-speaking areas of the states of Bombay, Madras, Hyderabad and Coorg were added to the Mysore state. Merging the states of Kutch and Saurashtra and the Marathi-speaking areas of Hyderabad with it enlarged Bombay state.

The strongest reaction against the SRC's report and the States Reorganization Act came from Maharashtra where widespread rioting broke out and eighty people were killed in Bombay city in police firings in January 1956. The opposition parties supported by a wide spectrum of public opinion—students, farmers, workers, artists, and businesspersons—organized a powerful protest movement. Under pressure, the

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government decided in June 1956 to divide the Bombay state into two linguistic states of Maharashtra and Gujarat with Bombay city forming a separate, centrally administered state. This move too was strongly opposed by the Maharashtrians.

Nehru now vacillated and, unhappy at having hurt the feelings of the people of Maharashtra, reverted in July to the formation of bilingual, greater Bombay. This move was, however, opposed by the people both of Maharashtra and Gujarat. The broad-based Samyukta Maharashtra Samiti and Maha Gujarat Janata Parishad led the movements in the two parts of the state. In Maharashtra, even a large section of Congressmen joined the demand for a unilingual Maharashtra with Bombay as its capital; and C.D. Deshmukh, the Finance Minister in the Central Cabinet, resigned from his office on this question. The Gujaratis felt that they would be a minority in the new state. They too would not agree to give up Bombay city to Maharashtra. Violence and arson now spread to Ahmedabad and other parts of Gujarat. Sixteen persons were killed and 200 injured in police firings.

In view of the disagreement over Bombay city, the government stuck to its decision and passed the States Reorganization Act in November 1956.