

Department – Political Science and Human Rights

Semester- B.A. 2nd Semester

Paper- Indian Government and Politics

Note- I do not claim the material provided hereunder as my intellectual property as this is the collection from the writings of different scholars uploaded on websites. I have just collected, edited and arranged articles in one file according to syllabus for the purpose of enriching the students for preparation of their exams during the lockdown period. Students can also use various online sources for better understanding. I expressed my heartfelt thanks to all the authors whose writings have been incorporated in preparing this material.

Constitutional Development in India

Constitution is the basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it. It is a written instrument embodying the rules of a political or social organization. It is a method in which a state or society is organized and sovereign power is distributed.

A constitution is a set of fundamental principles according to which a state is constituted or governed. The Constitution specifies the basic allocation of power in a State and decides who gets to decide what the laws will be. The Constitution first defines how a Parliament will be organized and empowers the Parliament to decide the laws and policies. The Constitution sets some limitations on the Government as to what extent a Government can impose rules and policies on its citizen. These limits are fundamental in the sense that the Government may never trespass them. The Constitution enables the Government to fulfill the aspirations of a society and create conditions for a just society.

The British came to India in 1600 as traders, in the form of East India Company, which had the exclusive right of trading in India under a charter granted by Queen Elizabeth I. In 1765, the Company obtained the 'diwani' (rights over revenue and civil justice) of Bengal, Bihar and Orissa. This started its career as a territorial power. In 1858, in the wake of the 'sepoy mutiny', the British Crown assumed direct responsibility for the governance of India. This rule continued until India was granted independence on 15 August, 1947.

With Independence came the need of a Constitution. A Constituent Assembly was formed for this purpose in 1946 and on 26 January, 1950, the Constitution came into being. However, various features of the Indian Constitution and polity have their roots in the British rule. There are certain events in the

British rule that laid down the legal framework for the organisation and functioning of government and administration in British India. These events have greatly influenced our constitution and polity.

Regulating Act, 1773

The act designated the Governor of Bengal as the Governor-General of Bengal. The First Governor-General of Bengal was Lord Warren Hastings. The act subordinated the Governors of Bombay and Madras to the Governor-General of Bengal. The Supreme Court was established at Fort William (Calcutta) as the Apex Court in 1774.

Pitt's India Act of 1784

The act established Board of Control over the Court of directors to guide and supervise the affairs of the company in India. It was introduced to remove the drawbacks of the Regulating Act. It was named after the then British Prime Minister. The act placed the Indian affairs under the direct control of the British Government.

Charter Act of 1833

Company's monopoly of trade with India was completely abolished. The act created the post of Governor General of India. It made the Governor General of Bengal as the Governor General of India. First Governor General of India was Lord William Bentick. Governments of Bombay and Madras were deprived of their legislative powers. This was the final step towards centralization in the British India. The act ended the activities of the East India Company as the commercial body.

Charter Act of 1853

In 1853, the charter act of 1833 was to time out and had to be renewed. It was renewed but no substantial changes were made. Legislative and Executive Councils were separated.

The charter act of 1833 provided the Haileybury college of London should make quota to admit the future civil servants. However, this system of an open competition was never effectively operated. A The Committee under the chairmanship of Lord Macaulay had prepared the regulations in this context.

Government of India Act of 1858

British Crown assumed sovereignty over India from the East India Company. It provided absolute imperial control without any popular participation in the administration of the country. This Act transferred the Government, territories and revenues of India from the East India Company to the British Crown. The rule of company was replaced by the rule of Crown in India. The powers of the British Crown were to be exercised by the Secretary of State for India. The secretary of state was a member of the British Cabinet. He was assisted by the Council of India, having 15 members. He was vested with complete authority and control over the Indian administration through the Governor-General as his agent. He was responsible ultimately to the British Parliament. The Governor General was made the Viceroy of India. Lord Canning was the first Viceroy of India 1858.

Indian Councils Act of 1861

It introduced, for the first time, the representative institutions in India. It provided that the Governor General's Executive Council should have some Indians as the non-official members while transacting the legislative businesses. The act initiated the process of decentralization by restoring the legislative powers to the Bombay and the Madras Presidencies. It accorded the statutory recognition to the portfolio system.

Indian Councils Act of 1892

The act introduced the principle of elections but in an indirect manner. It enlarged the functions of the Legislative Councils and gave them the power of discussing the Budget and addressing questions to the Executive.

Indian Councils Act of 1909

This act is also known as the Morley-Minto Reforms after the Secretary of State for India (Lord Morley and the Viceroy Lord Minto). It changed the name of the Central Legislative Council to the Imperial Legislative Council. The act introduced a system of Communal representation for Muslims by accepting the concept of 'separate electorate'. It was the first attempt to introduce a representative and popular element in Indian Administration. Lord Minto came to be known as the 'Father of communal electorate'.

Government of India Act of 1919

This act is also called Montague-Chelmsford Reform after the Secretary of State for India (Montague) and the Viceroy (Chelmsford). It introduced Dyarchy in the Provinces that is division of subjects of administration into transferred and reserved. Transferred subjects to be the responsibility of Ministers responsible to the Legislative Council. Indian Legislature to become Bi-Cameral (Council of State composed of 60 members and Legislature Assembly composed of 144 members).

Simon Commission, 1927

In November 1927 (2 years before the schedule), the British Government announced the appointment a seven-member statutory commission under the chairmanship of Sir John Simon to report on the condition of India under its new Constitution. All the members of the commission were British and hence, all the parties boycotted the commission.

The commission submitted its report in 1930 and recommended the abolition of diarchy, extension of responsible government in the provinces, establishment of a federation of British India and princely states, continuation of communal electorate and so on. To consider the proposals of the commission, the British Government convened three round table conferences of the representatives of the British Government, British India and Indian princely states.

On the basis of these discussions, a 'White Paper on Constitutional Reforms' was prepared and submitted for the consideration of the Joint Select Committee of the British Parliament. The

recommendations of this committee were incorporated (with certain changes) in the next Government of India Act of 1935.

Communal Award, 1932

In August 1932, Ramsay MacDonald, the British Prime Minister, announced a scheme of representation of the minorities, which came to be known as the Communal Award. The award not only continued separate electorates for the Muslims, Sikhs, Indian Christians, Anglo-Indians and Europeans but also extended it to the depressed classes (scheduled castes).

Gandhiji was distressed over this extension of the principle of communal representation to the depressed classes and undertook fast unto death in Yeravada Jail (Poona) to get the award modified. At last, there was an agreement between the leaders of the Congress and the depressed classes. The agreement, known as Poona Pact, retained the Hindu joint electorate and gave reserved seats to the depressed classes.

Government of India Act 1935

The act provided for federation taking the Provinces and the Indian princely states as units. A federal court was to be established. Burma was separated from India.

The act divided the powers between the centre and the units in terms of three lists, namely the Federal List, the Provincial List and the Concurrent List. It provided for the establishment of a Reserve Bank of India to control the currency and credit of the country. The act introduced bicameralism in 6 out of 11 Provinces. These six Provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.

Indian independence Act of 1947

It was based on the famous Mountbatten Plan (3rd June, 1947). Parliament on July 5, 1947. The Act relieved the assent of the crown on 18 July, 1947 and became effective on 15 August, 1947. The main provisions were:

Two Dominion States, India and Pakistan, came into existence on 15 August, 1947. The boundaries between the two Dominion States were to be determined by a boundary Commission headed by Sir Cyril Radcliff. Both the states had the right to frame their Constitutions by their respective Constituent Assemblies. They also had the right to leave the British Commonwealth. Till the new Constitutions were not effective, the governments in the two states would be run on the basis of Provisions of the Government of India Act, 1935. The British Crown ceased to be ruler of India. The members of the civil services appointed before 15 August, 1947 continued to remain in service and to enjoy all benefits, which they were entitled to avail so far.

Composition of Constituent Assembly

The Constituent Assembly was constituted in November 1946 under the scheme formulated by the Cabinet Mission Plan. The total strength of the Constituent Assembly was to be 389. Of these 296 seats were to be allotted to British India, 93 seats to the Princely States. Out of 296 seats

allotted to the British India, 292 members were to be drawn from the eleven governors' provinces and four from the four chief commissioners' provinces, one from each.

Each province and princely state (or group of states in case of small states) were to be allotted seats in proportion to their respective population. Roughly, one seat was to be allotted for every million population. Seats allocated to each British province were to be decided among the three principal communities - Muslims, Sikhs and general (all except Muslims and Sikhs), in proportion to their population.

The representatives of each community were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferable vote. The representatives of princely states were to be nominated by the heads of the princely seats. It is thus clear that the Constituent Assembly was to be a partly elected and partly nominated body.

The elections to the Constituent Assembly (for 296 seats allotted to the British Indian Provinces) were held in July-August 1946. The Indian National Congress won 208 seats, the Muslim 73 seats, and the small groups and independents got the remaining 15 seats. However, the 93 seats allotted to the princely states were not filled as they decided to stay away from the Constituent Assembly.

The constituent Assembly was set up in November 1946 as per the Cabinet Mission Plan of 1946. The Drafting Committee was appointed on 29 August 1947, with Dr. B.R. Ambedkar as the Chairman. Originally, the constitution had 22 parts, 395 articles and 8 schedules. The only state having constitution of its own is Jammu and Kashmir. The Mountbatten plan of 3 June, 1947 announced the partition of the country and a separate constituent assembly for the proposed state of Pakistan.

Working of the Constituent Assembly

The Constituent Assembly held its first meeting on 9 December, 1946. The Muslim League boycotted the meeting and insisted on a separate state of Pakistan. The meeting was thus attended by only 211 members. Dr. Sachchidanand Sinha, the oldest member, was elected as the temporary President of the Assembly, following the French practice.

Later on 11 December, 1946, Dr. Rajendra Prasad and HC Mukherjee were elected as the president and vice-president of the Assembly respectively. Sir B N Rau was appointed as the Constitutional advisor to the Assembly.

Salient Features of the Constitution of India

The Constitution of India is a unique constitution. It is the largest written liberal democratic constitution of the world. It provides for a mixture of federalism and Unitarianism, and flexibility

and with rigidity. Since its inauguration on 26th January 1950, the Constitution India has been successfully guiding the path and progress of India.

The salient features of the Constitution of India can be discussed as follows:

(1) Written and Detailed Constitution:

The Constitution is a wholly written document which incorporates the constitutional law of India. It was fully debated and duly enacted by the Constitution Assembly of India. It took the Assembly 2 years, 11 months and 18 days to write and enact the Constitution.

Indian Constitution is a very detailed constitution. It consists of 395 Articles divided into 22 Parts with 12 Schedules and 94 constitutional amendments. It is a constitution of both the Centre and states of Indian Union. It is indeed much bigger than the US Constitution which has only 7 Articles and the French Constitution with its 89 Articles.

(2) Self-made and Enacted Constitution:

Indian Constitution is a constitution made by the people of India acting through their duly elected and representative body—the Constituent Assembly that was organised in December 1946. Its first session was held on 9th December, 1946. It passed the Objectives Resolution on 22 January, 1947.

Thereafter, it initiated the process of constitution-making in the right earnest and was in a position to finally pass and adopt the constitution on 26th November, 1949. The constitution became fully operational with effect from 26th January 1950. We celebrate this day as our Republic Day. The Constitution of India is thus a self-made and duly enacted constitution.

(3) Preamble of the Constitution:

The Preamble to the Constitution of India is a well drafted document which states the philosophy of the constitution. It declares India to be a Sovereign Socialist Secular Democratic Republic and a welfare state committed to secure justice, liberty and equality for the people and for promoting fraternity, dignity the individual, and unity and integrity of the nation. The Preamble is the key to the constitution. It states in nutshell the nature of Indian state and the objectives it is committed to secure for the people.

(4) India is a Democratic Socialist State:

Although, right from the beginning the Indian Constitution fully reflected the spirit of democratic socialism, it was only in 1976 that the Preamble was amended to include the term 'Socialism'. It is now regarded as a prime feature of Indian state. India is committed to secure social, economic and political justice for its entire people by ending all forms of exploitation and by securing equitable distribution of income, resources and wealth. This is to be secured by peaceful, constitutional and democratic means.

(5) India is a Secular State:

India gives special status to no religion. There is no such thing as a state religion of India. This makes it different from theocratic states like the Islamic Republic of Pakistan or other Islamic

countries. Further, Indian secularism guarantees equal freedom to all religions. The Constitution grants the Right to Religious Freedom to all the citizens.

(6) India is a Democratic State:

The Constitution of India provides for a democratic system. The authority of the government rests upon the sovereignty of the people. The people enjoy equal political rights. On the basis of these rights, the people freely participate in the process of politics. They elect their government.

Free fair and regular elections are held for electing governments. For all its activities, the government of India is responsible before the people. The people can change their government through elections. No government can remain in power which does not enjoy the confidence of the people. India is world's largest working democracy.

(7) India is a Republic:

The Preamble declares India to be a Republic. India is not ruled by a monarch or a nominated head of state. India has an elected head of state (President of India) who wields power for a fixed term of 5 years. After every 5 years, the people of India indirectly elect their President.

(8) India is a Union of States:

Article I of the Constitution declares, that "India that is Bharat is a Union of States." The term 'Union of State' shows two important facts:

- (i) That Indian Union is not the result of voluntary agreement among sovereign states, and
- (ii) that states of India do not enjoy the right to secede from the Union. Indian Union has now 28 States and 7 Union Territories.

(9) Mixture of Federalism and Unitarianism:

While describing India as a Union of States, the Constitution provides for a federal structure with a unitary spirit. Scholars describe India as a 'Quasi-Federation' (K.C. Wheare) or as 'a federation with a unitary bias, or even as 'a Unitarian federation.'

Like a federation, the Constitution of India provides for:

- (i) A division of powers between the centre and states,
- (ii) A written, rigid and supreme constitution,
- (iii) Independent judiciary with the power to decide centre-state disputes and
- (iv) Dual administration i.e. central and state administrations. However, by providing a very strong centre, a common constitution, single citizenship, emergency provisions, common election commission, common all India services etc. the Constitution clearly reflects its unitary spirit.

India is a federation with some Unitarian features. This mixture of federalism-Unitarianism has been done keeping in view both the pluralistic nature of society and the presence of regional diversities, as well as due to the need for securing unity and integrity of the nation.

(10) Mixture of Rigidity and Flexibility:

The Constitution of India is rigid in parts. Some of its provisions can be amended in a difficult way while others can be amended very easily. In some cases, the Union Parliament can amend some parts of the Constitution by passing a simple law.

Article 368, of the Constitution provides for two special methods of amendment:

(i) Most of the provisions of the Constitution can be amended by the Union Parliament by passing an Amendment Bill by a majority of total membership and 2/3rd majority of members present and voting in each of its two Houses.

(ii) For the amendment of some specified parts, a very rigid method has been provided. Under it, first the Union Parliament passes the Amendment Bill by a majority of total membership and 2/3rd majority of members present and voting in each house, and then it goes to the State Legislatures for ratification. The Amendment gets passed only when it is approved by not less than one half of the several states of the Union.

Thus the Constitution of India is partly rigid and partly flexible.

(11) Fundamental Rights:

Under its Part III (Articles 12-35), the Constitution of India grants and guarantees Fundamental Rights to its citizens. It is called the Indian Bill of Rights. Initially, 7 Fundamental Rights were granted but after the deletion of the Right to Property from the list of Fundamental Rights (44th Amendment Act 1979) their number came down to six.

The Six Fundamental Rights are:

(i) Right to Equality:

It provides for Equality before Law, End of Discrimination, Equality of Opportunity, Abolition of untouchability and Abolition of Titles.

(ii) Right to Freedom:

It incorporates six fundamental freedoms -freedom of speech and expression, freedom to form associations, freedom to assemble peaceably without arms, freedom to move freely in India, freedom of residence in any part, and freedom of adopting any profession or trade or occupation. It ensures personal freedom and protection in respect of conviction for certain offences.

The Constitution lays down that the freedom of life and liberty cannot be limited or denied except in accordance with the procedure established by law. Now under Art 21A Right to Education for the children between the ages of 6-14 years has been granted. Art. 22 guarantees protection against arbitrary arrest and detention.

(iii) Right against Exploitation:

This Fundamental Right prohibits sale and purchase of human beings, forced labour (begar) and employment of children in hazardous jobs and factories.

(iv) Right to Freedom of Religion:

The grant of this right involves the freedom of conscience, religion and worship. Any person can follow any religion. It gives to all religions freedom to establish and maintain their religious institutions. No person can be compelled to pay any tax for the propagation of any religion. The state cannot levy a tax for any religion and constitution prohibits the imparting of religious instructions in schools and colleges.

(v) Cultural and Educational Rights:

Under this category the Constitution guarantees the rights of the minorities to maintain and develop their languages and cultures. It also confers upon them the right to establish, maintain and administer their educational institutions.

(vi) Right to Constitutional Remedies (Art. 32):

This fundamental right is the soul of the entire Bill of Rights. It provides for the enforcement and protection of Fundamental Rights by the courts. It empowers the Supreme Court and High Courts to issue writs for the enforcement of these rights.

(12) National Human Rights Commission (NHRC) and State Human Rights Commission and Protection of Human Rights:

With a view to protect the human rights of all the people the Protection of Human Rights Act, 1993 was passed by the Union Parliament. Under it the National Human Rights Commission was established. It is headed by a former Chief Justice of India. It acts as an independent commission with a status of a civil court. It works for preventing the violations of human rights of the people.

In cases of proved violations of human rights, the NHRC can order the grant of compensation to the victims. Several State, Human Rights Commission are also working for the protection of Human Rights. India is fully committed to protect the human rights of all the people of the world.

(13) Fundamental Duties of the Citizens:

In its Part IVA (Article 51 A) the Constitution describes the following Fundamental Duties of a citizen:

1. Respect for the Constitution, the national flag and the national anthem;
2. Cherish the noble ideals of the freedom struggle;
3. Uphold and protect the sovereignty, unity and integrity of India;
4. Defend the country and render national service when called;
5. Promote the common brotherhood of all the people of India and renounce any practice derogatory to the dignity of women;
6. Preserve the rich heritage of the nation's composite culture;
7. Protect the natural environment and have compassion for living creatures;
8. Develop scientific temper, humanism and spirit of inquiry and reform;

9. Safeguard public property and abjure violence; and
10. Strive for excellence in all individual and collective activity.
11. Duty of the parents to send their children to schools for getting education.

The Fundamental Duties are, however, not enforceable by the courts.

(14) Directive Principles of State Policy:

Part IV of the Constitution dealing with the 'Directive Principles of State Policy' provides one of the most striking features of the Indian Constitution. The Directive Principles are instructions to the state for securing socio-economic developmental objectives through its policies. These are to be implemented by both the Union for the States.

For example, Directive Principles direct the state to ensure for the people adequate means of livelihood, fairer distribution of wealth, equal pay for equal work, protection of children, women, labour and youth, old age pension, social security, local self-government, protection of the interests of the weaker sections of society; promotion of cottage industries, rural development, international 'peace friendship and co-operation with other states etc. The aim of Part IV is to secure and strengthen socio-economic democracy in India.

(15) Bi-Cameral Union Parliament:

The Constitution provides for a Bicameral Legislature at the Union level and names it as the Union Parliament. Its two Houses are: The Lok Sabha and the Rajya Sabha. The Lok Sabha is the lower, popular, directly elected house of the Parliament. It represents the people of India.

Its maximum strength stands fixed at 550. Presently Lok Sabha has 545 members. The people of each state elect representatives in proportion to their population. Orissa has 21 seats out of which some seats are reserved for the people belonging to SCs and STs.

Members of the Lok Sabha are directly elected by the people of India. All men and women of 18 years or above of age whose names are registered in the voters lists vote in elections for electing the members of Lok Sabha. Every voter of 25 years or above of age is eligible to contest elections to the Lok Sabha. The tenure of the Lok Sabha is 5 years. But the President acting under the advice of Prime Minister can dissolve it earlier also.

The Rajya Sabha is the upper and, indirectly elected second House of Parliament. It represents the states of the Indian union. Its maximum membership can be 250. Presently, the Rajya Sabha has 245 members. Out of these 233 members are elected by all the State Legislative Assemblies and 12 are nominated by the President from amongst eminent persons from the fields of Art, Science and Literature. Rajya Sabha is a quasi-permanent house. Its 1/3rd members retire after every two years. Each member has a tenure of six years. Orissa has 10 seats in the Rajya Sabha.

Of the two houses, of Parliament, the Lok Sabha is a more powerful House. It alone has financial powers. The Union Council of Ministers is collectively responsible before the Lok Sabha. However, the Rajya Sabha is neither as powerless as the British House of Lords and nor the Lok Sabha is as powerful as the British House of Commons.

(16) Parliamentary System:

The Constitution of India provides for a parliamentary system of government at the Centre as well as in every state of the Union. The President of India is the constitutional head of state with nominal powers. The Union Council of Ministers headed by the Prime Minister is the real executive. Ministers are essentially the members of the Union Parliament.

For all its policies and decisions the Council of Ministers is collectively responsible before the Lok Sabha. The Lok Sabha can remove the Ministry by passing a vote of no-confidence. The Cabinet, in fact the Prime Minister has the power to get the Lok Sabha dissolved by the President. On similar lines a parliamentary government is also at work in each state.

(17) Adult-Suffrage:

Another feature of the Constitution is that it provides for universal adult suffrage. All men and women enjoy an equal right to vote. Each adult man and woman above the age of 18 years has the right to vote. All registered voters get the opportunity to vote in elections.

(18) Single integrated State with Single Citizenship:

India is the single Independent and Sovereign integrated state. Presently it has 28 states and 7 Union Territories. All citizens enjoy a common uniform citizenship. They are entitled to equal rights and freedoms, and equal protection of the state.”

(19) Single Integrated Judiciary:

The Constitution provides for a single integrated judicial system common for the Union and the states. The Supreme Court of India works at the apex level, High Courts at the state level and other courts work under the High Courts.

There are 21 State High Courts working in all parts of India. Orissa High Court has been in existence since 1948 and it is located at Cuttack. The Supreme Court is the highest court of the land. It controls and runs the judicial administration of India.

(20) Independence of Judiciary:

The Indian Constitution makes judiciary truly independent. It is clear from the following facts:

- (a) Judges are appointed by the President,
- (b) Only persons with high legal qualifications and experience are appointed as judges,
- (c) Judges of the Supreme Court cannot be removed from office except through an extremely difficult process of implement.
- (d) The salaries of the judges are very high,
- (e) The Supreme Court has its own staff. Indian judiciary has an autonomous organisation and status. It works as an independent and powerful judiciary.

(21) Judicial Review:

The Constitution is the supreme law of the land. The Supreme Court acts as the guardian protector and interpreter of the Constitution. It is also the guardian of the Fundamental Rights of

the people. For this purpose it exercises the power of judicial review. By it, the Supreme Court determines the constitutional validity of all laws made by the legislatures. It can reject any law which is found to be unconstitutional.

(22) Judicial Activism:

Currently, Indian judiciary has been becoming more and more active towards the performance of its social obligations. Through Public Interest Litigation system (PIL) as well as through a more active exercise of its powers, the Indian judiciary has been now very actively trying to secure all public demands and needs due to them under the laws and policies of the state.

(23) Emergency Provisions:

The Constitution of India contains special provisions for dealing with emergencies.

It recognises three types of possible emergencies:

(1) National Emergency (Article 352) an emergency resulting from war or external aggression or threat of external aggressions against India or from armed rebellion within India or in any of its part;

(2) Constitutional Emergency in a State (Article 356) an emergency resulting from the failure of constitutional machinery in any state; or some states and

(3) Financial Emergency (Article 360) an emergency resulting from a threat to financial stability of India.

The President of India has been empowered to take appropriate steps for dealing with these emergencies. During the period of an emergency, the powers of the President, actually of the PM and the Union Council of Ministers Cabinet increase tremendously. President can take all steps deemed essential for meeting an emergency. These are called emergency powers of the President.

(24) Special Provisions relating to Scheduled Castes and Scheduled Tribes:

With a view to protect the interests of people belonging to Scheduled Castes and Scheduled Tribes, the Constitution lays down certain special provisions. It provides for reservation of seats in the legislatures for the people belonging to Scheduled Castes and Scheduled Tribes. President can nominate in Lok Sabha not more than two members of the Anglo-Indian Community in case he is of the opinion that this community is not adequately represented in the House.

Reservation of some jobs for the people belonging to SCs, STs and OBCs has also been in operation. The reservation system has been now extended upto the year 2020. Presently, a bill for granting 33% reservation of legislative seats for women is in the process of getting enacted into law. Reservation system is also in existence in the Panchayats and Municipal Councils.

(25) Provisions regarding Language:

The Constitution lays down special provisions for defining the Language of the Union, Regional Languages and Language of the Supreme Court and High Courts. It states that the official language of the Union shall be Hindi in Devnagri script. But along with this, it also provides for

the continuance of English language. A state legislature can adopt the language of the province as its official language.

English continues to be the language of the Supreme Court and the High Courts. The Constitution gives a directive to the Union to develop Hindi and popularise its use. In its Eighth Schedule, the Constitution recognises 22 modern Indian Languages — Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjabi, Nepali, Manipuri, Konkani, Sanskrit, Sindhi, Tamil, Telgu, Urdu, Bodo, Dogri, Maithli and Santhali.

(26) A Constitution Drawn from several Sources:

In formulating the Constitution of India, the founding fathers used several sources. The values and ideals of the national movement guided their path. The national movement influenced them to adopt secularism as the ideal. Some provisions of Government of India Act 1935 were used by them and several features of foreign constitutions influenced them, and were adopted by them.

In adopting parliamentary system and bicameralism, the British Constitution influenced them. The US Constitution influenced them in favour of republicanism, independence of judiciary, judicial review and bill of rights. The progress of the (former) USSR after the 1917 Socialist Revolution influenced them to adopt socialism as a goal. Likewise, they were influenced by the constitutions of Canada, Australia, Weimar Republic (Germany) and Ireland.

With all these features, the Indian Constitution is a constitution best suited to the Indian environment. The Constitution has been helping India to organise and run her government and administration in an effective way both in times of peace and war. The basic structure of the Constitution i.e. its most fundamental features can be described as: Preamble, Fundamental Rights, Directive Principles, Secularism, Federalism, Republicanism, Independence of Judiciary, Rule of Law, and Liberal Democracy.

What are the Main Sources of the Indian Constitution?

The main sources of the Indian constitution are as follows:

The Constitution refers to the fundamental laws and principles which prescribe the nature, functions and the limits of a government. It reflects the aspirations of the people it belongs to.

In India, the Constituent Assembly was constituted in November 1946, under the scheme formulated by the Cabinet Mission Plan. The Constituent Assembly was to be a partly elected and partly nominated body. The members were to be indirectly elected by the members of the provincial assemblies, who themselves were elected on a limited franchise. It comprised of representatives of all sections of Indian society.

The Indian Constitution is unique in its contents and spirit. Although it had picked up many best features from other constitutions of the world. The constitution of India has several salient features that distinguish it from the constitutions of other countries.

Many people criticize that the Indian Constitution is a *bag of borrowings* or just a *paper and scissor work*. It is true that it had borrowed some features but drafted according to the **Historical perspective, Geographical diversity and Cultural and traditional characteristics of India.**

The chairman of drafting committee **Dr. Ambedkar** had said in this regard that – “*As to the accusation that the Draft Constitution has reproduced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution....*”

The Constitution framers adopted from several sources, features which are present in the Indian Constitution. The main sources may be identified as

Introduction

- The Indian Constitution has been formed after ransacking all the major constitutions of the world; however, at the same time, the framers have also considered the following factors –
 - Historical perspective of India;
 - Geographical diversity of India; and
 - Cultural and traditional characteristics of India.

Major Sources

The following table illustrates the major sources of Indian Constitution –

Provisions	Sources
President (Nominal Head)	The United Kingdom
Cabinet System of Ministers	
Parliamentary type of Government	
Post of Prime Minister	
Bicameral Parliament	
Council of Ministers	
Provision of Speaker in Lok Sabha	
Legislation	

Citizenship	
Writs	
Rule of Law	
Preamble	The United States
Fundamental Rights	
Independent Judiciary	
Judicial Review	
Impeachment of President	
Removal of Judges (of Supreme Court & High Courts)	
Functions of Vice-President	
Federal System (with strong Center)	Canada
Residuary powers in the Center	
Appointment of Governors (in states) by the Center	
Advisory Jurisdiction of Supreme Court	
Principle of co-operative federalism	Australia
Freedom of Inter-State trade	
Trade and Commerce	
Concurrent List	
Joint sitting of the two Houses of Parliament	

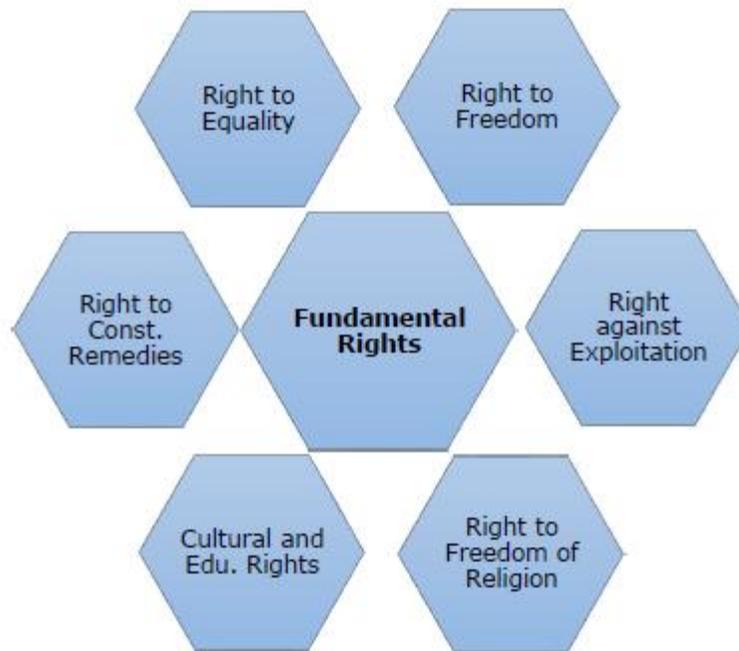
Directive Principles of State Policy	Ireland
Presidential Election	
Nominating the members of Rajya Sabha	
Republic	France
Liberty, Equality, and Fraternity in the Preamble	
Fundamental Duties	Russia
Idea of Social, Economic, and Political Justice in Preamble	
Procedure for amendment	South Africa
Election of Rajya Sabha members	
Emergency powers to be enjoyed by the Union	Germany
Suspension of Fundamental Rights during emergency	
Procedure Established by Law	Japan
The federal scheme	Govt. of India Act 1935
Role of federal judiciary	
Office of the Governor	
Emergency provisions	
Public Service Commissions	
Administrative details	

Fundamental Rights

Introduction

The Constitution of India listed the rights to the citizens of India that would be specially protected and known as the 'Fundamental Rights.' 'Fundamental' means the Constitution has separately listed and made special provisions for the protection of 'Fundamental Rights.' Fundamental Rights are different from other rights (i.e. ordinary legal rights) available to the citizens of India. Ordinary legal rights are protected and enforced by ordinary law; but Fundamental Rights are protected and guaranteed by the Constitution of India. Ordinary Rights may be changed or amended by the legislature by ordinary law making process, but a Fundamental Right may only be changed by amending the Constitution itself. Judiciary has the powers and responsibility (assigned by the Constitution) to protect the Fundamental Rights; in case any government's action violates it. Judiciary, if found any act of the government (either by Executive or by Legislature) equivalent to violation of the Fundamental Rights, can be declared that act illegal or restrict them to do further so. However, Fundamental Rights have some reasonable restrictions and hence, they are not absolute in nature. Furthermore, the preamble to our Constitution speaks of ensuring all its citizens equality, liberty, and justice. Fundamental Rights put this promise into effect. Fundamental Rights are very essential to everyone's life. They are the basic feature of the Constitution.

The Constitution of India provides **six** Fundamental Rights, which are mentioned in Articles 12 to 35 in Part-III (of Constitution).



Right to Equality

The Rule of law is the foundation of Indian democracy that states that the laws apply in the same manner to all, irrespective of a person's status. It means that the Prime Minister of the country or a poor farmer in a remote village is subject to the same law and equal treatment. Article 14 states that the government shall not deny to any person, *equality before the law or the equal protection of the laws*, which means –

- Laws apply in the same manner to all;
- No person is above the law;
- Every citizen is subjected to the same laws and same treatment;
- No person can legally claim any special treatment or privilege on any of the ground; and
- Law makes no distinction between a political leader, a government official, and an ordinary citizen.
- Article 15 states that no citizen can be discriminated against on the basis of his/her religion, race, caste, sex, or place of birth.
- Article 15 further enhanced the Right to Equality by providing that every citizen shall have equal access to public places like shops, restaurants, hotels, and cinema halls. Similarly, there shall be no restriction with regard to the use of wells, tanks, bathing ghats, roads, playgrounds, and places of public resorts maintained by the government.

- Article 16 states that the State cannot discriminate against anyone in the matters of employment.
- Article 17 abolishes the practice of untouchability in any form, which states that every person has access to all public places including playgrounds, hotels, shops, etc.

Right to Freedom

- Freedom means non-interference and absence of restrictions in one's affairs by others, whether it be the individuals or the Government.
- The Constitution of India provides all citizens 'freedom' under Article 19 to do any of these following acts –
 - Right to Freedom of speech and expression;
 - Right to form assembly in a peaceful manner;
 - Right to form associations and unions;
 - Right to move freely throughout the country;
 - Right to reside in any part of the country; and
 - Right to Practice any profession, or to carry on any occupation, trade, or business.
- However, there are certain reasonable restrictions that can be imposed upon the citizens by the Government in the larger interests of the society.
- Likewise, though every citizen has the right to all these freedoms, but it is subject to reasonable restrictions such as –
 - The expression of freedoms should not cause public nuisance or disorder.
 - This freedom of one should not violate others' right to freedom.
 - Freedom is not unlimited right to do what one wants.
 - Accordingly, the government can impose certain reasonable restrictions (on freedoms of citizens) in the larger interests of the society.
- The Honorable Supreme Court of India has explained the 'freedom' under Article 21 as –
 - No citizen can be killed unless the court has ordered a death sentence.
 - No person can be arrested or detained by the police officer unless he has proper legal justification.
- As per the guidelines settled by the Hon'ble Supreme Court of India, a police officer while arresting a person has to follow some procedures –

- The police officer is duty bound to inform the person (in case of his arrest), the reason/s of his arrest and detention and the person so arrested has the right to know the reason for his arrest.
- It shall be the duty of the police officer to produce the arrested person before the nearest magistrate within a period of 24 hours of arrest.
- The arrested person has the right to consult a lawyer of his choice for his defense.

Right against Exploitation

- The Constitution of India provides distinct and clear provisions to prevent exploitation of the weaker sections of the society.
- The Constitution prohibits the following practices as evil and declares them illegal –
 - Trafficking of human beings, i.e., the selling and buying of human beings, (generally, women and children are the victims of trafficking).
 - Forced labor or beggar in any form is illegal and is prohibited (beggar is work or service without remuneration, which is called as bonded labor if this practice runs through life of the worker).
 - Child labor is also prohibited. The children below 14 years of age, cannot be employed to work in any factory or mine or in any other hazardous work, such as railways and ports.
- The Parliament of India has enacted laws to implement constitutional right that prohibits children below 14 years of age from working in hazardous industries such as *beedimaking*, firecrackers and matches, printing, and dyeing.

Right to Freedom of Religion

- India is a **secular state**, which means the State has no official religion and India does not promote/protect any one religion over the other religion.
- The Fundamental Rights under Articles 25 to 28 facilitate individuals the freedom to live by their religious beliefs and practices as they interpret these beliefs.
- Every citizen in India has liberty to profess, practice, and propagate the religion that he or she believes in.
- Every sect or a religious group is free to manage its religious affairs, but it is subject to reasonable restrictions debarring, any person, or organization to compel another person to convert into his religion by means of force, fraud, inducement, or allurement.

- This right is in the form of restrictions upon the government not to compel any person to pay any taxes for the promotion or maintenance of any particular religion or religious institution.
- In the educational institutions run or added by the government, neither any religious instruction can be imparted nor can any person be compelled to take part in any religious instruction or to attend any religious worship.

Cultural and Educational Rights

- The democracy is based upon the wishes of the majority. In this system, the right and interest of the minorities need to be protected by developing a mechanism that cannot be changed prejudicially by the majority.
- Therefore in a democratic country, Special Protection is provided in the constitution to preserve and develop the language, culture, and religion of minorities.
- Any section of citizens with a distinct language or culture has the right to conserve its language, culture, and religious practices.
- Articles 29 and 30 provide Cultural and Educational Rights, which states that all minorities, religious or linguistic groups, having a distinct language, script or culture of its own can set up their own educational institutions in order to preserve and develop their language, script, or culture.

Right to Constitutional Remedies

- A person aggrieved by the violation of any of his/her fundamental right can approach either to the Supreme Court (under Article 32) or High Court (under Article 226) for the restoration of his/her fundamental right/s.
- The enforceability of rights is a very important aspect of all fundamental rights and hence, it is called as the “Right to Constitutional Remedies.”
- According to Dr. Ambedkar, the right to constitutional remedies is the ‘heart and soul of the Constitution.’

Introduction

- A list of policy guidelines is included in the Constitution known as “the Directive Principles of State Policy” (DPSP).
- These guidelines are ‘non-justifiable’, i.e., parts of the Constitution that cannot be enforced by the judiciary.

Goals of DPSP

- Following are the significant Goals of DPSP –

- Welfare of the people; Social, economic, and political justice;
- Raising the standard of living; equitable distribution of resources;
- Promotion of international peace.

Policies of DPSP

- Following are the important Policies of DPSP –
 - Uniform civil code;
 - Prohibition of consumption of alcoholic liquor;
 - Promotion of cottage industries;
 - Prevention of slaughter of useful cattle;
 - Promotion of village panchayats

Non - Justifiable rights of DPSP

- Following are the major non-justifiable rights of DPSP –
 - Adequate livelihood;
 - Equal pay for equal work for men and women;
 - Right against economic exploitation;
 - Right to work; and
 - Early childhood care and education to children below the age of six years.

Difference between DPSP & FR

- Following are the major differences between the Fundamental Rights and the Directive Principles of State Policy –
 - The Fundamental Rights mainly protect the rights of individuals, while the directive principles ensure the well-being of the entire society.
 - The Fundamental Rights are justifiable and can be claimed in the court of law, whereas the Directive Principles of State Policy cannot be enforced by the judiciary.
 - The Fundamental Rights restrain the government from doing certain things, while the Directive Principles of State Policy insist the government to do certain things.
- Regarding the Right to Property, the Constitution made it clear that property could be taken away by the government for public welfare.

- In 1973, the Supreme Court gave a decision that the Right to Property was not a part of the basic structure of the Constitution and therefore, the Parliament has the power to abridge this right by an amendment.
- In 1978, the 44th amendment to the Constitution removed the Right to Property from the list of Fundamental Rights and transformed it into a simple legal right under Article 300 A.

Right to Constitutional Remedies

- If someone violates someone's Fundamental Rights, then he/she can approach either a High Court or directly the Supreme Court to get proper remedy.
- The Supreme Court or the High Court (as the case may be) can issue orders (known as **writs**) and give directives to the Government for the enforcement of Fundamental Rights.
- Following are the five writs/orders issued by either the Supreme Court or High Courts –
 - **Habeas corpus** – A writ of habeas corpus means that the court orders that the arrested person should be presented before the court. The court can also order to set free an arrested person if the manner and/or grounds of arrest are not lawful or satisfactory.
 - **Mandamus** – This writ is issued when a court finds that a particular office holder is not doing legal duty and thereby is infringing on the right of an individual.
 - **Prohibition** – This writ is issued by a higher court (High Court or Supreme Court); when a lower court has considered a case, which is going beyond its jurisdiction.
 - **Quo Warranto** – If a court finds that a person is holding office but is not entitled to hold that office, it issues the writ of *quo warranto* and restricts that person from acting as an office holder.
 - **Certiorari** – Under this writ, a higher court orders a lower court or another authority to transfer a matter pending before it to the higher authority or court.
- Apart from the judiciary, some other bodies and mechanisms that protect an individual's right are –
 - The National Commission on Minorities,
 - The National Commission on Women,
 - The National Commission on Scheduled Castes, etc.
- In 1993, the Government of India has established '**National Human Rights Commission**' (NHRC), which consists of –
 - A former chief justice of the Supreme Court of India;
 - A former judge of the Supreme Court;

- A former chief justice of a High Court, and
- Two other members who have knowledge and practical experience in the matters relating to human rights.
- However, NHRC does not have the power of prosecution. It can merely make recommendations to the government or recommend to the courts to initiate proceedings based on the inquiry that it conducted.

Expansion and Scope of Fundamental Rights

- Since independence, the scope of Fundamental Rights have expanded greatly to include several other rights from time to time.
- The Fundamental Rights embedded in our constitution are the source of all rights, based on this, the Government of India enacted several laws e.g. –
 - Right to information,
 - Right to freedom of press, and
 - Right to education.
- The Parliament of India has amended the Constitution to include ‘school education’ as a Fundamental Right for the Indian citizens. Resultantly, now it is the duty and responsibility of the governments to provide free and compulsory education to all children up to the age of 14 years.
- The Parliament has enacted a law ‘right to information act’ under the Fundamental Right to freedom of thought and expression, which provides a right to seek information from the government offices.
- The Supreme Court of India by explaining the Fundamental Rights has further expanded the scope and meaning of the Fundamental Rights, as it included ‘right to food’ in the ‘right to life’ section (i.e. Article 21).

Directive Principles of the State Policy (DPSP)

This article is written by Richa Singh of Faculty of Law, Aligarh Muslim University. In this article, she has mentioned all the provisions of Directive Principles given under Part IV of the Indian Constitution and tried to compare the Fundamental Rights and DPSP and discussed the conflict between them with the help of some important cases decided by the apex court of the country.

Directive Principles of State Policy: Meaning

The Directive Principles of State Policy (DPSP) has been taken from the Irish constitution and enumerated in Part IV of the Indian Constitution.

The concept behind the DPSP is to create a 'Welfare State'. In other words, the motive behind the inclusion of DPSP is not establishing political democracy rather, it's about establishing social and economic democracy in the state. These are some basic principles or instructions or guidelines for the government while formulating laws/policies of the country and in executing them.

According to Dr B R Ambedkar, these principles are 'novel features' of the Constitution. DPSP acts as a guideline for the state and should be taken into consideration while coming up with some new policy or any law. But no one can compel the State to consider and follow all that which is mentioned in DPSP, as DPSP is not justiciable.

Part 4 of the Indian Constitution consists of all the DPSP (Directive Principles of State Policy). It covers the Articles from 36 to 51.

Article 36 of Part IV defines the term "State" as the one, who has to keep in mind all the DPSP before formulating any policy or law for the country. The definition of "State" in the part IV will be the same as that of Part III, unless the context otherwise requires a change in it. In Article 37 the nature of DPSP has been defined. DPSPs are non-justiciable. Article 38 to 51 contains all the different DPSP's.

History

The source of the concept of DPSP is the Spanish Constitution from which it came in the Irish Constitution. The makers of the Indian Constitution were very much influenced by the Irish nationalist movement and borrowed this concept of DPSP from the Irish Constitution in 1937.

The Government of India Act also had some instructions related to this concept which became an important source of DPSP at that time. The Directive Principles of the Constitution of India have been greatly influenced by the Directive Principles of Social Policy. The Indians who were fighting for the independence of India from the British rule were greatly influenced by the movements and independence struggles of Ireland at that time, to free themselves from the British rule and move towards the development of their constitution. DPSP become an inspiration for independent India's government to tackle social, economic and various other challenges across a diverse nation like India. DPSP and fundamental rights have a common origin. The Nehru Report of 1928 contained the Swaraj Constitution of India which contained some of the fundamental rights and some other rights such as the right to education which were not enforceable at that time. Sapru Report of 1945 divided fundamental rights into justifiable and non-justifiable rights.

Justifiable rights, the one which was enforceable in a court of law and included in Part III of the Constitution. On the other hand, Non-justifiable rights were listed as directive principles, which

are just there to guide the state to work on the lines for making India a welfare state. They were included in part IV of the Constitution of India as Directive Principles of State Policy.

The Constituent Assembly was given the task of making a constitution for India. The assembly composed of elected representatives and Dr. Rajendra Prasad was elected as its President. Both the Fundamental Rights and the DPSP were enlisted in all the drafts of the constitution (I, II and III) prepared by the Drafting Committee whose chairman was Dr. B.R. Ambedkar.

Sources

The DPSP of the Indian Constitution was inspired by the Irish Constitution which took these details from Spain. Some Instruments of Instructions, which also became the immediate source of DPSP, have been taken from the Government of India Act, 1935. Another source was the Sapru Report, 1945 which gave us both Fundamental Rights (justiciable) and DPSP(s) (non-justiciable).

Reflection of Preamble

The Preamble is a brief introduction to the constitution and it contains all the objectives which were there in the mind of the drafters of the Indian Constitution.

According to some scholars, DPSP is ‘the kernel of the Indian Constitution’.

The Directive Principles of the State Policy (DPSP) are the guidelines for the state which it must consider while formulating new laws and policies and it lay down all the objectives which the Constitution seeks to achieve.

The expression “Justice – Social, economic and political” that is mentioned in the preamble is the ultimate aim that has to be achieved through the formulation of the DPSP. DPSP are enlisted to attain this ultimate aim as mentioned in the preamble i.e. Justice, Liberty, Equality and fraternity are also known as the four pillars of the Indian Constitution. It also enlists the idea of the welfare state which was absent under the colonial rule.

Features

DPSP are not enforceable in a court of law.

They were made non-justifiable considering that the State may not have enough resources to implement all of them or it may even come up with some better and progressive laws. It consists of all the ideals which the State should follow and keep in mind while formulating policies and enacting laws for the country. The DPSPs are like a collection of instructions and directions, which were issued under the Government of India Act, 1935, to the Governors of the colonies of India. It constitutes a very comprehensive economic, social and political guidelines or principles and tips for a modern democratic State that aimed towards inculcating the ideals of justice, liberty, equality and fraternity as given in the preamble. The Preamble consists of all the objectives that needs to be achieved through the Constitution.

Adding DPSP was all about creating a “welfare state” which works for the individuals of the country which was absent during the colonial era.

Article 36

Article 36 contains the definition of State.

Unless the context otherwise requires, the definition of “the State” is the same as it is given in Part III which covers Fundamental Rights. The definition given in Article 12 shall apply in this part as well which says that the State includes:

The Government of India, The Parliament of India, The Government of each of the States , The Legislature of each of the States, and all the authorities whether local or any other which are the part of Indian territory or under the control of the government.

Article 37

Article 37 mentions the two important characteristics of DPSP, and they are:

It is not enforceable in any court of Law.

And they are very basic and essential for the governance of the country. The provisions mentioned in this part shall not be enforceable in any court and the principles laid down in this part are fundamental for the governance of the country. The State must make laws according to it because the ultimate aim of the State is the welfare of its citizens.

Socialist principles

These principles follow the ideology of “Socialism” and lay down the framework of India.

Its ultimate aim is to provide social and economic justice to all its citizens so that the state can fulfil the criteria required for a welfare state.

The articles in DPSP which follows the socialist principles are – Article 38, Article 39, Article 39 A, Article 41, Article 42, Article 43, Article 43 A and Article 47.

Article 38

Article 38 talks about Social, Political and Economic Justice.

It directs that the State should secure a social order which provides social, political and economic justice to all its citizens.

Article 38(2) says that state shall reduce the inequalities faced by the people on the grounds like income, status, facilities, opportunities, etc.

Article 39

Article 39 mentions all the Principles of policy which must be followed by the State.

The State shall make its policies towards securing the following objectives—

All the men, women and citizens should have the right to an adequate means of livelihood. The ownership and control of the people over any material resources under the community should be distributed as it is for the common good of the public; The functioning of the economic system should be such that the concentration of wealth and the means of production don't result in a loss

common to all or which causes detriment to the citizens; There shall be no gender discrimination, both men and women should get equal pay for equal work.

The health and strength possessed by any worker, men and women, and the tender age of children should not be abused and the citizens should not be forced to enter and indulge into any occupation or profession which is not suitable for their age or strength, not even out of any financial necessity or economic backwardness

Children must be given enough opportunities and facilities so that they develop in a healthy manner and in such conditions where their freedom and dignity, including the fact that their childhood and youth remain protected, against any form of exploitation and against any sort of moral and material abandonment.

legal aid

Article 39A

Article 39A talks about Free Legal aid.

It says that the State shall promote justice with the aim of administering Justice on the basis of equal opportunity, and shall provide free legal aid through any suitable legislation or schemes which State may think fit ,or, in any other way, so that it could ensure that the opportunities for securing justice are not denied to any citizen because of economic backwardness or any other kind of disabilities.

Article 41

Article 41 talks about Welfare Government.

It says that state shall make some effective provisions for securing the right to work, etc. and in cases of unemployment, old age, disablement or any other cases acting in its economic capacity & development it shall provide public assistance. This article is employed as a tenet for numerous social sector schemes like social assistance program, right to food security, old-age pension scheme, MGNREGA, etc.

Article 42

Article 42 talks about Securing just and humane work and maternity relief.

It says that state shall create some provisions so that the citizens get easy, just and humane conditions for working. It shall also provide maternity relief for the women.

Article 43

Article 43 talks about Fair wages and a decent standard of life.

It says that the state can endeavor to secure by appropriate legislation or economic organization to all the workers employed in agricultural, industrial or otherwise, work, a living wage, conditions of work, ensuring a decent standard of life and enjoyment of leisure and social-cultural opportunities and promote cottage industries on an individual or cooperative basis in rural and remote areas of the country.

Article 47

Article 47 talks about Nutrition, Standard of living and public health.

It says that the State shall look into the matter of raising the level of nutrition and the standard of living of its people and it is the duty of the State to keep a check on the improvement of public health. The State shall also endeavor to prohibit the consumption of intoxicating drinks and drugs which are injurious for health, except for medicinal purposes. There are many social development programmes such as National Health Mission, Mid Day Meal Scheme, etc. which target the marginalized sections of the society i.e. women, children, weaker sections etc. are inspired by this DPSP.

panchayats

Gandhian Principles

These principles reflect the programme of reconstruction ideology propagated by Gandhi throughout the national movement. In order to fulfil his dreams, some of his concepts have been included in the form of DPSP.

They direct the State through these articles – Article 40, Article 43, Article 43 B, Article 46, Article 47 and Article 48.

Article 40

Article 40 deals with the Organization of Panchayats.

It says that the state shall organize Panchayat system and should grant them such powers which would be necessary for the functioning as units of the self-government system. The 73rd and 74th amendments of the constitution which are related to Panchayati Raj and Municipal Corporations respectively, later ended up as the constitutionally backed framework for the principle mentioned in Part IV.

Article 43

Article 43 talks about Fair wages and a decent standard of life.

It says that the state can endeavor to secure, by appropriate legislation or economic organization, to all the workers employed in agricultural, industrial or otherwise, work, a living wage, conditions of work, a decent standard of life and enjoyment of leisure & social-cultural opportunities and promote cottage industries on an individual or cooperative basis in rural and remote areas of the country.

Article 43B

Article 43B deals with the promotion of cooperatives.

It was inserted by the 97th amendment act in 2011. It says that state shall endeavor to promote the management of the co-operative societies to help the people who are engaged in the same.

Article 46

Article 46 deals with the Protection of SCs, STs, weaker sections from exploitation.

The State shall promote with special care including the educational and economic interests of the weaker sections of the society i.e. the SCs and the STs and shall make provisions to protect them from all forms of exploitation which includes social injustice.

Article 47

Article 47 talks about Nutrition, Standard of living and public health.

It says that the State shall look into the matter of raising the level of nutrition and the standard of living of its people and it is the duty of the State to keep a check on the improvement of public health. The State shall endeavor to prohibit the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes.

There are many social development programmes such as National Health Mission, Mid Day Meal Scheme, etc. which target the marginalized sections of the society i.e women, children, weaker sections etc. are inspired by this DPSP.

Article 48

Article 48 talks about Scientific agriculture and animal husbandry.

It says that the State shall endeavor to organize agriculture and animal husbandry using modern methods and scientific techniques which make people more advanced and helps in earning their livelihood easily and State shall take some progressive steps for preserving and improving the existing breeds and prohibiting the slaughter of cows and other cattle.

uniform civil code

Liberal-intellectual Principles

These principles follow the 'Liberalism' ideology.

The articles which follow this approach in DPSP are – Article 44, Article 45, Article 48, Article 48 A, Article 49, Article 50 and Article 51.

Article 44

Article 44 talks about the Uniform Civil Code.

There should be a provision for the citizens to secure a Uniform Civil Code throughout the territory of India in order to simplify things and reduce ambiguity in the laws which makes it more complex than it actually is.

Education

Article 45

Article 45 contains the Provision for free and compulsory education for the children in the country.

The State shall make laws to provide free and compulsory education for the children until they are 14 years old within a period of 10 years from the date of commencement of this provision in the Constitution. This provision was incorporated by the virtue of the 86th Amendment, 2002 in the Constitution of India.

Agriculture

Article 48

Article 48 talks about Organisation of agriculture and animal husbandry.

The State shall endeavour to organise agriculture and animal husbandry using modern and scientific technology which is prevalent in the present times and also take steps for preserving and improving the existing breeds and prohibiting the slaughter of cows and other cattle in the country for the development of agricultural related practices.

environment protection

Image Source: Pixabay

Article 48A

Article 48A talks about the Environment and Wildlife Protection.

The State shall endeavour to protect and improve the environment and surroundings. And to safeguard the forests and wildlife of the country to make the environment sustainable.

Article 49

Article 49 talks about Protection of monuments and places and objects of national importance.

It shall be the duty of the State to protect every monument or place or any object of historic or artistic interest which has some national importance, from any form of disfigurement, destruction, etc.

Article 50

Article 50 talks about Separation of Judiciary from the Executive.

There should be a line between the judiciary and the executive body of the Government in the public services of the State as it makes it easier if both do not interfere in each other's work and function independently.

Article 51

Article 51 talks about Promotion of international peace and security.

The State shall endeavour to —

Promote international peace and security; maintain friendly and honourable relations between nations; foster respect for international law and treaty obligations in the dealings of one person with another for maintaining harmony between the nations and encourage settlement of international disputes by the method of arbitration.

42nd Amendment

Four Directive Principles which were added by the 42nd amendment are as follows:

Article 39 – To secure opportunities for healthy development of children.

Article 39A – It says that the State shall promote justice with the aim of administering it on the basis of equal opportunity, and shall provide free legal aid through any suitable legislation or the schemes which State may think fit or in any other way so that State can ensure that opportunities for securing justice are not denied to any citizen because of any economic or other disabilities.

Article 43A – The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations.

Article 48A – The State shall endeavour to protect and improve the environment and surroundings and to safeguard the forests and wildlife of the country to make its environment liveable.

income inequality

44th Amendment

The 44th Amendment Act of 1978 added Article 38(2) in the DPSP.

Article 38(2) says that the state shall work to minimize the inequalities in income, and endeavour to eliminate inequalities in status, opportunities etc. not only amongst individuals but also amongst all the groups of people residing in different areas or engaged in different fields.

child labour

86th Amendment

The 86th Amendment changed the subject of Article 45 in the DPSP and brought it within the ambit of the fundamental rights mentioned in Part III as Article 21-A has been made for the children between the age group of 6-14 years of age. The same article was previously a directive principle which says that the State should take care of the children who are below 6 years of age.

97th Amendment

The 97th Amendment act of 2011 inserted Article 43-B in the list of DPSP. It says that the State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the co-operative societies.

Enforceability of DPSP

DPSP were not made enforceable by the Constituent Assembly which was formed to draft the Indian Constitution. But the non-enforceability of the Principles does not mean that they are of no importance.

There are some arguments which are in favor of its enforceability and some are against the making of DPSP enforceable. Those who favor the enforcement of the Principles argue that

enforceability of DPSPs will keep a check on the Government and would unite India. For instance, Article 44 of the Indian Constitution talks about the Uniform Civil Code which aims for uniform provisions of civil law for all the citizens of the country irrespective of their caste, creed, religion or beliefs.

People who are against the enforcement of the DPSPs are of the view that these principles need not be separately enforced as there are already many laws which indirectly implements the provisions mentioned in DPSP. For instance, Article 40 of the Constitution which deals with Panchayati Raj system was introduced through a constitutional amendment, and it is very evident that there are numerous panchayats exist in the country today.

Another argument against DPSP is that it imposes morals and values on the citizens of the country. It should not be clubbed with the law as it is really important to grasp that law and morals area unit various things. If we impose one on the opposite that will generally impede the expansion and development of the society.

Importance of DPSP

DPSP covers the Articles 36-51 in Part IV of the constitution.

It mentions protection of women of the country, environmental conservation, rural growth and development, decentralisation of power, uniform civil code, etc. which are considered some of the essentials in making laws for a “welfare state”.

Although non-justiciable, they provide a set of guidelines for the Government for its functioning in the country.

Significance of DPSP

Directive Principles are non-justiciable but these are backed by voice of the people which is the real sanction behind every law in reality. DPSP gives the philosophical foundations of a welfare system. These principles makes it a responsibility of the State to secure it through welfare legislation.

Their nature is more of moral ideals. They constitute a moral code for the State but this does not reduce their value as moral principles are very important and the absence of it may hamper the growth of a society. A state is run by its people and the Government is always formed and managed by them, so it’s really important to have a set of standards for making laws in the country.

Directive Principles act as a guide for the government which helps them in making policies and laws for the purpose of securing justice and welfare in the State. DPSP are like a source of continuity in the Governance of the country because in a democratic system, the Governments change after regular elections and every new government makes different policies and laws for the country. The presence of such guidelines is really important because it ensures that every Government will follow the set of principles in the form of DPSP while formulating its laws.

Directive Principles can be called as the positive directions for the State which helps in securing social and economical dimensions of democracy. DPSP are supplementary to Fundamental Rights which offers political rights and other freedoms. They both are nothing without each other as one provides social and economic democracy and the other, political rights.

Directive Principles of State Policy make it possible for people to measure the worth of a government and its working. A Government which doesn't consider these principles can be rejected on this ground by the people in favour of a government which gives due importance to the task of securing these Directive Principles in the state.

The Directive Principles constitute a manifesto of a Nation. These reflect the ideas and views which were there in the mind of the drafters while drafting the constitution. These reflected the philosophy behind the making of the Constitution and hence provide useful information to the courts in interpreting the existing provisions in the Constitution and in coming up with better laws and policies.

The Directive Principles do not seem to be very rigid in their meanings and this helps the State in interpreting and applying these principles in accordance with the situation prevailing at a given time. Thus, the inclusion of Part IV which contains the Directive Principles of State Policy proved to be very useful for the country. The Directive Principles provide good foundations for welfare state. The securing of Directive Principles helped in completing the requirements of a democratic system. It supplemented the Fundamental Rights of the people and built a State characterized by these four pillars – Justice, Liberty, Equality, and Fraternity.

Implementation of Directive Principles of State Policy

There are some acts and policies from 1950 onwards which had been implemented to give effect to these Directive Principles. They are as follows:

The Minimum Wages Act (1948)

Child Labour Prohibition and Regulation Act (1986)

The Maternity Benefit Act (1961)

Equal Remuneration Act (1976)

Handloom Board, Handicrafts Board, Coir Board, Silk Board, etc. have been set up for the development of cottage industries in the country.

Integrated Rural Development Programme (1978)

Jawahar Rozgar Yojana (1989)

Swarnajayanti Gram Swarozgar Yojana (1999)

Sampoorna Gram Rozgar Yojana (2001)

Mahatma Gandhi National Rural Employment Guarantee Programmes (2006)

The National Forest Policy (1988)

Article 21-A was inserted by the 86th amendment, making free education for children below the age of 14 compulsory.

Prevention of Atrocities Act safeguarding the interests of SCs and STs.

Several Land Reform Acts.

fundamental rights

DPSP and Fundamental rights

Fundamental Rights are described as the basic rights guaranteed to every citizen of the country under the constitution. They are present in Part III of the Constitution which ensures some rights to all its citizens so that they can live their lives peacefully. They help in checking the activities of the Government so that it cannot curtail any of the basic rights granted by the Constitution in the form of Fundamental rights.

Fundamental Rights apply to all the citizens without any form of discrimination on the basis of race, caste, creed, sex, place of birth, etc. Violation of the fundamental rights may lead to punishment and can initiate proceedings against the government if it tries to curtail them.

The conflict between DPSP and fundamental rights

Fundamental Rights and the DPSP are supplementary to each other and are essential to meet the social and economic dimensions of a democratic government.

The conflict between Fundamental Rights and DPSP often arises as sometimes it has been seen, by various legislations, that DPSP have wider scope than the Fundamental Rights. The Fundamental Rights are the rights which are enforceable by the Courts and any law that is in contravention to the provisions mentioned in Part III are ultra vires.

On the other hand, the DPSP are not enforceable in any Court of Law and nothing can be declared as void merely because it is against the provisions given under the DPSP.

In the case of State of Madras v. Champakam, the Supreme Court held the Fundamental rights are superior to the DPSP saying that the Fundamental Rights under Part III prevails over DPSP in case of any conflict between them.

In the landmark judgment given by the Supreme Court in the Golak Nath case, it was held that the provisions mentioned under Part III as Fundamental Rights cannot be undermined just to implement the provisions given under Part IV which enlists some important guidelines for the State in the form of the DPSP.

The Constitution was amended in the year 1971 and through this amendment, Article 31C was incorporated in the Constitution. It confers wider importance on the DPSP.

In the Minerva Mills case, the Supreme Court restricted this wide scope which was conferred on the DPSP under Article 31C by making the following changes:

It restored Article 31C to its pre-1976 position. A law would be protected by Article 31C only in the case if it has been made to implement the Article 39 (b) and Article 39 (c) of the DPSP and not any of the other directive included in Part IV.

There is a fine balance in the Constitution between the DPSP and the Fundamental Rights, which should be adhered by the Courts without placing any of them as superior.

Criticism of Directive Principles of State Policy

Some of its critics hold that these principles don't carry any importance as their violation can't be challenged in the courts.

The Directive Principles are a mere declaration of the instructions which are to be observed and secured by the State at will. but the Constitution neither makes them justiciable nor it mentions any limit to what extent it can be secured.

These are neither consistently explicit nor properly classified. These appear to be a collection of instructions which are only based on morals and a State can't rely merely on morals for its working.

Several Directives lack clarity and they have been repeated at different places.

The Directive to push international peace and friendly relations among all the nations is just a declaration but the real issue is the securing part of it for which nothing has been given.

Part IV includes some directives which are not complete in actual observation. The ideal is to introduce prohibition but this ideal cannot be really and effectively realised. The states which introduced prohibition had to scrap it later on.

Most of the Directive Principles are based on old and foreign philosophy which have lost its relevance now.

Many critics hold that the Preamble should also enlists all these goals which are given under DPSP and their description in Part IV has made things more complicated and complex than it was before.

Directive principles just create an impression about the usage of the legitimate power by the State and the motive is to gain support through promise-making and not through inaction .

Case study on Directive Principles of State Policy

The question that arises is whether Fundamental Rights precedes DPSPs or latter takes a higher position than the former, it has been a subject of argument for years.

There are some important judicial pronouncements which tried to give an answer to this question, they are as follows:

Kerala Education Bill [1]

The court said that if a conflict arises between Fundamental Right and DPSPs, the harmony between the two should not be disturbed, but if, even after applying the doctrines of interpretation the conflict doesn't resolves then the former should be upheld and given more importance over the other i.e. DPSP.

Madras vs Champakan [2]

If any law is in contravention to the provisions mentioned under Part III of the Indian Constitution, it would be held void but this is not applicable in case of DPSPs. This shows that Fundamental rights are on a higher pedestal than DPSPs as far as this case is concerned.

Venkataraman v. State of Madras [3]

The Court gave more importance to the Fundamental rights over DPSPs.

I. C. Golaknath & Ors vs State Of Punjab & Anr. [4]

The Court held that the Parliament cannot curtail the Fundamental rights in making any law or policy for the country. It also mentioned that if a law has been made to give effect to Article 39 (b) and Article 39 (c) of Part IV of the Constitution and in doing so if Article 14, Article 19 or Article 31 gets violated, then it cannot be declared as void merely on the ground of such contravention.

Keshavnanda Bharati vs the State of Kerala [5]

The Apex Court placed DPSPs on a higher position than Fundamental Rights.

After that, in the case of Minerva Mills vs Union of India [6], the Court while deciding the case held that the harmony between the two should be maintained because neither of the two has any precedence over each other. Both are complementary to each other and they should be balanced anyhow for the proper functioning of the State.

Unnikrishnan vs State of Andhra Pradesh [7]

The Court was of the view that Fundamental Rights and Directive Principles are not exclusive but complementary to each other. The Court said that the Fundamental Rights are the ways through which the goals given in Part IV can be achieved.

Conclusion

The significance of DPSPs cannot be looked down upon just because it is not enforceable in any court of law. These principles were added to facilitate the governance and smooth functioning of the country. It was added to meet the main objectives and the ultimate goal of a country i.e to work for the welfare of its citizens. There are some important Acts in the above-mentioned information, so we can't say that DPSPs are not implemented and have no importance at all.

It is like a structure given for the government and it should work and formulate new laws revolving around that structure only so that the welfare of the people be ensured. Every policy and law formulated by the state has to meet the standards which are mentioned in Part IV of the Constitution.

Thus, even after being non-justiciable they are implemented in some important Acts and they hold equal relevance and importance as Fundamental rights mentioned in Part III of the Constitution of India.

Speaker of the Lok Sabha: Functions and Position of the Speaker

The Speaker is the most powerful man in the Lok Sabha. He enjoys supreme authority in the House. He enjoys a status equal to that of the Chief Justice of India.

(I) Method of Election of the Speaker:

After a new Lok Sabha is constituted, the Speaker and Deputy Speaker are elected by the House in its first meeting. Normally they are elected unanimously. The leader of the majority party proposes their names, after consulting the leaders of the opposition parties. The leader of the opposition party seconds the names so proposed.

The election takes place only when there is disagreement between the majority party and the opposition parties. In May 2009 Smt. Meira Kumar and Sh. Karia Munda got unanimously as the Speaker and Deputy Speaker of the 15th Lok Sabha, respectively.

(II) Qualifications:

There are no formal qualifications for the office of the Speaker. Any sitting member of the Lok Sabha can be elected as Speaker by the House. As such qualifications essential for the membership of the Lok Sabha are also the essential qualifications for the office of the Speaker.

(III) Tenure:

The tenure of the Speaker is equal to the tenure of Lok Sabha, i.e., 5 years. However, the Speaker continues to be in office even after the dissolution of the Lok Sabha. He holds office till the new Lok Sabha elects a new Speaker. The Speaker can resign his office at any time before the completion of his full tenure.

(IV) Method of Removal:

The Speaker ceases to hold office if he ceases to be a member of the House. He can also be removed from office by the Lok Sabha by passing a resolution supported by majority of its members. However to initiate such a no-confidence move against the Speaker, a prior notice of 14 days has to be given by the movers.

Functions of the Speaker:

1. To preside over the meetings of the House:

The Speaker presides over the meetings of the Lok Sabha and conducts its proceedings. He also presides over the joint sittings of the two Houses of the Parliament.

2. To maintain discipline in the Lok Sabha:

The Speaker maintains discipline in the House. If any member disrupts or tries to disrupt the proceedings of the House, the Speaker can warn him or can ask him to leave the House. He can suspend a member from the House whom he finds guilty of violating the discipline and decorum.

3. To fix the Agenda of the House:

The Speaker, in consultation with other members of the business committee of the House and the Prime Minister, Fixes the agenda of the meetings of the House.

4. Permission to ask questions:

Each member of the House can put questions to the ministers; the permission of the Speaker is required purpose.

5. To conduct the business of the House:

The Speaker conducts the business of the House. He allows the members to introduce the bills or to move motions. He recognizes the members on the floor of the House and gives them time for speaking in the House. He fixes time limit for the debates in the House, puts matters to vote, and announces the results. He can warn the members against the use of un-parliamentary language and can order the same to be expunged from the records.

6. Interpretation of Rules of Procedure:

The business of the House is conducted according to definite and settled rules of procedure. In case of any dispute regarding the rules of the House, the Speaker interprets and applies these rules. The interpretation of rules made by the Speaker is final and cannot be challenged.

7. Power to adjourn the House:

The Speaker can adjourn the meetings of the House if the quorum of the House is not complete or if the conducting the business of the House is not possible due to a disorderly behaviour of its members.

8. Decision about a Money Bill:

If a dispute arises over the question as to whether a bill is a Money Bill or not, the decision is made by the Speaker. Such a decision is final and cannot be challenged inside or outside the House.

9. To exercise a Casting Vote:

The Speaker does not participate in the debates and discussions of the House. He even does not take part in the voting on bills. Although as a member he has the right to vote. In case of a tie over any bill, he can exercise his casting vote.

10. Protection of the Privileges of the Members of the House:

The members of the House enjoy several privileges which are protected by the Speaker. All cases of disputes relating to the privileges of the members are referred by the Speaker to the committee on privileges. In accordance with the wishes of this committee, the Speaker then decides these matters. The Speaker acts as the guardian of the privileges of the MPS and the House.

11. Role regarding the Committees of the House:

A major part of the business of the House is conducted by the committees of the House. The Speaker plays an important role in the composition of the Committees. He is the ex-officio Chairman of some of the important committees such as Business Advisory Committee, Committee on Rules and few others.

12. Administrative Functions:

The Speaker has several administrative responsibilities. He has control over the Lok Sabha Secretariat. He appoints the employees of the Secretariat, determines the service rules for them and supervises their work. He has the responsibility for the upkeep of the records of the proceedings of the House.

Position of the Speaker:

The Speaker of the Lok Sabha enjoys a position of great respect and dignity. He has the supreme responsibility to conduct the proceedings of the House. He acts as the representative of the House, and as its impartial chairman. His authority is supreme in the House and no one can challenge his decisions and rulings. The office of the Speaker is of great dignity and respect.

Type of Questions

Members have a right to ask questions to elicit information on matters of public importance within the special cognizance of the Ministers concerned. The questions are of four types:—

(i) Starred Questions- A Starred Question is one to which a member desires an oral answer from the Minister in the House and is required to be distinguished by him/her with an asterisk. Answer to such a question may be followed by supplementary questions by members.

(ii) Unstarred Questions- An Unstarred Question is one to which written answer is desired by the member and is deemed to be laid on the Table of the House by Minister. Thus it is not called for oral answer in the House and no supplementary question can be asked thereon.

(iii) Short Notice Questions- A member may give a notice of question on a matter of public importance and of urgent character for oral answer at a notice less than 10 days prescribed as the minimum period of notice for asking a question in ordinary course. Such a question is known as

‘Short Notice Question’.

(iv) Questions to Private Members- A Question may also be addressed to a Private Member (Under Rule 40 of the Rules of Procedure and Conduct of Business in Lok Sabha), provided that the subject matter of the question relates to some Bill, Resolution or other matter connected with the business of the House for which that Member is responsible. The procedure in regard to such questions is same as that followed in the case of questions addressed to a Minister with such variations as the Speaker may consider necessary.

ZERO HOUR denotes the time immediately following the Question Hour in both Houses of Parliament. This is about **12 noon** which is why it is called Zero Hour. During this hour members can raise matters of great importance **without prior 10 days notice**. However, the duration of the Zero Hour has varied over the years. It is not possible to predict what kind of matters might be raised during Zero Hour as there is **no mention of any Zero Hour in the rules of the Parliament**. It began as an informal practice in 1962. The idea behind zero hour is that there are certain matters of urgent public importance which can not wait for 10 days notice.

Half an hour Discussion Members have a right to get information from the Government on any matter of public concern by means of questions to Ministers. When a member feels that the answer given to a question, Starred or Unstarred or Short Notice, is not complete or does not give the desired information or needs elucidation on a matter of fact, he may be allowed by the Speaker to raise a discussion in the House for half an hour. The procedure is, therefore, termed as ‘Half-an-Hour Discussion’.

Zero Hour

Zero Hour is an informal tool available to the members to raise the matters without any prior notice. It starts after question hour and lasts until the regular business is taken up. Thus, the time gap between the end of zero hour and beginning of regular business (agenda) of the house is called Zero hour. It is not mentioned in any rule book but its existence since 1962 is by convention.

Motions in India Parliament (Six Motions)

The six most important motions in India parliament are: adjournment motion, privilege motion, censure motion, 'no-confidence' motion, calling attention motion and cut motion!

(i) Adjournment Motion:

At the end of the question-hour in the Parliament, motion moved by a member when it is desired to draw the attention of the Executive for the purpose of discussing a definite matter of urgent public importance.

(ii) Privilege Motion:

A motion moved by a member if he feels that a Minister has committed a breach of privilege of the House or of any one or more of its members by withholding the facts of a case or by giving a distorted version of facts etc.

(iii) Censure Motion:

A motion which seeks to censure the government for its "lapse". If the motion is passed in the Popular House, the Cabinet resigns.

(iv) 'No-Confidence' Motion:

A motion moved by a member to express lack of confidence in the government for any reason. The motion, if allowed, is debated upon. At the conclusion of such debate, a vote of confidence is sought by the government and if it fails to get the required majority of votes, it has to resign.

(v) Calling Attention Motion:

A member may, with prior permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief Statement regarding the matter or ask for time to make a Statement.

(vi) Cut Motion:

A motion that seeks reduction in the amount of a demand presented by the government is known as a cut motion. Such motions are admitted at the Speaker's discretion. It is a device through which members can draw the attention of the government to a specific grievance or problem. There are three types of Cut Motion:

(a) Disapproval of Policy Cut:

It means to express disapproval of the policy underlying.

(b) Economy Cut:

Asks for a reduction of the amount of the demand by a specific amount.

(c) Token Cut:

Is a device to ventilate specific grievances within the sphere of the government's responsibility. The grievances have to be specified. Usually the motion envisages a small reduction in the demand.

Power and Functions of Indian Parliament

All the legislative powers of the federal Government are vested in the Parliament. The laws framed by the Indian Parliament are enforced in the whole of the country. The Parliament of India is a bi-cameral legislature. It consists of two houses- Rajyasabha Lok Sabha and President of India. Rajyasabha is the upper chamber of the Parliament while Lok Sabha is the lower chamber of the Parliament.

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

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

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

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

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

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

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

5) Judicial Powers- Includes;

- (i). Impeachment of President for violation of constitution
- (ii). Removal of judges of Supreme Court and High court
- (iii). Removal of Vice- President
- (iv). Punish members for breach of privileges like sitting in the house when the member knows he is not an eligible member, serving as member before taking oath etc.

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

7). Other Powers-

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

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

The constitution also empowers the Parliament to make law on a state subject in the following circumstances:

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

Executive Powers and Functions

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

Article 75 of the constitution mentions that the council of ministers remains in office as long as it enjoys the confidence of the Lok Sabha. The ministers are responsible to the Lok Sabha individually and collectively. Lok Sabha can remove the council of ministers by passing a no confidence motion in the Lok Sabha.

Apart from that, the Lok Sabha can also express lack of confidence in the government in the following ways:

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

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

Financial Powers and Functions

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

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

Judicial Powers and Functions

judicial powers and functions of the Parliament are mentioned below;

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

Electoral Powers and Functions

The electoral powers and functions of the parliament are mentioned below;

- (i) The elected members of the parliament (along with state assemblies) participate in the election of the President
- (ii) All the members of the parliament participate in the election of the Vice-President.

(iii) The Lok Sabha elects its Speaker and Deputy Speaker.

(iv) The Rajya Sabha elects its Deputy Chairman.

(v) Members of various parliamentary committees are also elected.

Constituent Powers and Functions

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

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

- (i) **Simple Majority:** These bills need to be passed by simple majority, that is, a majority of members present and voting in each of the House.
- (ii) **Special Majority:** These bills need to be passed by the majority of the House and two-third of the members present and voting in each of the House.
- (iii) *Special majority and consent of half of all the state legislatures:* These bills are to be passed by the special majority in each house. Along with this, at least half of the state legislatures should give consent to the bill.

Difference between the powers and position of the Lok Sabha & Rajya Sabha

1. The Council of States or Rajya Sabha is a permanent House and it is not subject to dissolution. After every two years, one-third of its members retire and its same numbers of seats are filled up by new members. The Lok Sabha is not a permanent House. It is dissolved after the expiry of its term of five years. But it can be dissolved before the period of five years by the President on the advice of the Council of Ministers. New Lok Sabha is elected and constituted within a period of 6 months from the date of its dissolution.

2. The total membership of the Rajya Sabha is 250. It is a representative House of States but the States are not represented equally in the Rajya Sabha. Seats in the Rajya Sabha are allocated to different States on the basis of population. Out of the total members of the House, twelve members are nominated by the President from amongst the persons having special knowledge or practical experience in the fields of literature, science, art and social service. The maximum strength of the Lok Sabha can be 552 members. Out of this, 530 members are elected from the States and 20 members are elected from the Union Territories. The remaining two members are nominated by the President from among the Anglo-Indian community.

3. The members of the Rajya Sabha are elected by the Legislative Assemblies of the respective States on the basis of proportional representation. The members of the Lok Sabha are elected by the people directly

on the basis of secret vote and universal franchise. For the purpose of election, the population is divided into various constituencies.

4. The Chairman of the Rajya Sabha is not a member of this House. The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. But the Deputy-Chairman of the Rajya Sabha is elected by the members of the Rajya Sabha from amongst its members. The Speaker and the Deputy Speaker of the Lok Sabha are the members of the House and are elected by the members of the Lok Sabha themselves.

5. The Money Bills cannot be introduced in the Rajya Sabha. The Money Bills can be introduced only in the Lok Sabha.

6. With respect to Money Bills, the Rajya Sabha can make only recommendations which may or may not be accepted by the Lok Sabha. The Rajya Sabha is given 14 days time to consider the Money Bills and if it fails to do anything within that period, the Bill is deemed to have been passed in the manner it was passed by the Lok Sabha. The Lok Sabha is not bound to accept the recommendations of the Rajya Sabha with respect to Money Bills. The Lok Sabha has the real and final authority in respect of Money Bills.

7. The Council of Ministers is not responsible to the Rajya Sabha. Therefore, no-confidence motion cannot be introduced in the Rajya Sabha. The Council of Ministers is in fact, responsible to the Lok Sabha. It can remove a government from office by passing a resolution of no-confidence.

8. But the Rajya Sabha exercises certain powers which are not available to the Lok Sabha. It can declare a subject included in the State List as a subject of national importance by passing a resolution supported by not less than two-third members present and voting. If a subject of State List is declared of national importance, Parliament gets power to legislate upon such a subject. The Lok Sabha does not have any such power to declare a subject of the State List of national importance.

9. The Rajya Sabha has the power to create new All India Services by passing a resolution supported by not less than two-third members present and voting. The Lok Sabha does not enjoy any such power to create new All India Services.

10. If and when the Lok Sabha is dissolved and the declaration of Emergency is in force, the Rajya Sabha approves such declaration of Emergency. The Lok Sabha does not get this opportunity as the Rajya Sabha is not subject to dissolution.

11. The proposal to remove the Vice-President is initiated only in the Rajya Sabha not in the Lok Sabha. Lok Sabha either approves or rejects such proposal to remove the Vice-President but it cannot initiate such proposal.

UTILITY OF RAJYA SABHA

We have already discussed above that the Rajya Sabha is a permanent House. It has some special functions to perform as provided in Arts. 249 and 312. In the matter of Money Bills the Rajya Sabha has very limited powers. A vote of no confidence can neither be introduced nor passed by the Rajya Sabha. In case of a joint sitting to resolve a dead-lock in case of Ordinary Bills the position of Rajya Sabha is slightly weak owing to its lack of numbers as compared to the Lok Sabha. Even though the Rajya Sabha has less powers as compared to the Lok Sabha there are certain reasons to support its continued existence which may be summed up as under—

1. In a federal Constitution, a second chamber is considered necessary.

2. Senior politicians, as well as persons who have specialized in any particular field, may get through to the Rajya Sabha by indirect election. It is not for everyone to obtain support of the masses in a direct election for the Lok Sabha.

3. Sometimes the popular house which is directly elected is tempted to take populist measures in order to please the electorate. In such cases, the Rajya Sabha may play the role of applying the brakes and delaying the matter.

SPECIAL POWERS OF RAJYA SABHA

Due to its federal character, the Rajya Sabha has been given two exclusive or special powers that are not enjoyed by the Lok Sabha:

1. It can authorise the Parliament to make a law on a subject enumerated in the State List (Article 249).
2. It can authorise the Parliament to create new All-India Services common to both the Centre and states (Article 312).

An analysis of the above points makes it clear that the position of the Rajya Sabha in our constitutional system is not as weak as that of the House of Lords in the British constitutional system nor as strong as that of the Senate in the American constitutional system. Except in financial matters and control over the council of ministers, the powers and status of the Rajya Sabha in all other spheres are broadly equal and coordinate with that of the Lok Sabha. Even though the Rajya Sabha has been given less powers as compared with the Lok Sabha, its utility is supported on the following grounds:

1. It checks hasty, defective, careless and ill-considered legislation made by the Lok Sabha by making provision of revision and thought.
2. It facilitates giving representation to eminent professionals and experts who cannot face the direct election. The President nominates 12 such persons to the Rajya Sabha.
3. It maintains the federal equilibrium by protecting the interests of the states against the undue interference of the Centre.

What are the Powers and Functions of Prime Minister of India?

Article 74(1) of the Constitution states that there shall be a council of ministers with Prime Minister as its head and advise the President who shall exercise his function in accordance with advice tendered. Thus the real power is vested in council of ministers with Prime Minister as its head.

Appointment of the Prime Minister

- The term of office of Prime Minister is not fixed in constitution. The constitutional provisions of the Prime Minister are mentioned below:
- Union government shall have council of ministers headed by the Prime Minister
- Prime Minister shall be appointed by President

- Other minister shall be appointed by President on the recommendation of Prime minister
- The ministers shall hold the office during the pleasure of the President
- A minister who is not a member of the Parliament for any 6 consecutive months shall cease to be a minister

Powers and Functions

The Prime Minister performs many significant functions in the Indian political system and exercises vast powers to his advantage. He is the chief executive of the nation and works as head of union Government.

1. **Head of the Government** – Though President is head of the state, Prime Minister is head of the government. All the decisions are taken in the name of President but with the aid and advice of Prime Minister and council of minister. Even regarding appointing other ministers he has to appoint according to PM's recommendation.
2. **Leader of Cabinet**– It is Prime Minister who recommends President regarding their appointment, he allocates and reshuffles various portfolios among minister, he presides over the meeting of council of ministers and influences their decision, he can ask any member to resign or recommend President to remove any minister. Hence on death or resignation of Prime Minister entire council of minister tends to collapse
3. **Link Between President and the Cabinet** – Article 78 of constitution specify the duties of PM and in discharging them he acts as a link between President and cabinet. The following are the cases where he does so:
 - While communicating all the decisions of the council of ministers relating to administration of affairs of the union and proposals for legislation
 - When any decision taken by council of minister by not taking in to consideration any clauses of constitution or opinion of council then President can ask Prime minister to consider such issues
 - When President calls for any information regarding administration of the affairs of union or any such things
1. **Leader of the Parliament**– as a leader he determines the dates of its meetings and programmes for the session. He also decides when the house has to be prorogued or dissolved. As a chief spokesman he makes announcement of principal government policies and answers questions on then
2. **Chief Spokesman in Foreign Relations**– in international conferences it is he who speaks for the nation.
3. Leader of the party
4. **Chairman of various commissions**- on being PM he is de facto chairman of some of the commissions like planning commission, national development council, national integration council, inter-state councils, national water resources council.

Functions in Coalition Government

Coalition is coming together or entering into an alliance of two or more separate parties persons for a temporary period with a specific objective of taking on activities of the state.

Powers in Single Party Government

When in elections a single party gains complete majority then President invites leader of such party to form government and act as Prime Minister. In such a case Prime Minister will have all the powers as stated in constitution with no restrictions. Thus, such a government is more stable.

Role in Minority Government

Minority government in parliamentary system is formed when a political party or a coalition of parties does not have majority of overall seats in the parliament but is sworn into government by the outside support of the other parties to break a hung parliament election results. In such a situation legislation can only be passed with the support of other parties. This government tends to be less stable than majority government. A classic example in political history is of Narasimha Rao government. In such a condition Prime Minister is not necessarily the head of largest party, he can be any person as decided by all the members. In such a situation government relies on other parties to pass laws. The major difference between coalition and minority government is that in coalition government the opposition parties in minority government create an agreement by which they are allowed to take control of government.

Prime Ministers of India Till Date.

Sl. No.	Name	Duration
1	Jawaharlal Nehru	1947-1964
2	Gulzari Lal Nanda	1964-1964
3	Lal Bahadur Shastri	1964-1966
4	Gulzari Lal Nanda	1966-1966(Acting)
5	Indira Gandhi	1966-1977
6	Morarji Desai	1977-1979
7	Charan Singh	1979-1980
8	Indira Gandhi	1980-1984
9	Rajiv Gandhi	1984-1989
10	Vishwanath Pratap Singh	1989-1990
11	Chandra Shekhar	1990-1991
12	P V Narasimha Rao	1991-1996
13	Atal Bihari Vajpayee	1996-1996(16 days)
14	H D Deve Gowda	1996-1997
15	I K Gujral	1997-1998

16	Atal Bihari Vajpayee	1998-1999
17	Atal Bihari Vajpayee	1999-2004
18	Dr Manmohan Singh	2004-2009
19	Dr Manmohan Singh	2009-2014
20	Narendra Modi	2014-till date

Governor - Power, Tenure, Qualifications, Appointment -

The state executive is made up by Governor, Chief Minister, Council of Ministers and Advocate-General of State. Governor, as President, heads the state government. Article 153-167 in the Indian Constitution deal with the provisions related to the state governments of the country. Governor is a titular head or constitutional head and at the same time, he is the agent of the centre as the union government nominates Governor in each state.

Who is a Governor?

Governor is a nominal executive head of the state. He forms an important part of the state executive where he acts as the chief executive head. Central Government nominates the governor for each state.

How is a Governor Appointed?

The Indian President appoints Governor for each state by warrant under his hand and seal. Central Government is responsible to nominate the governor for each state.

Note:

- Unlike elections of President, there is no direct or indirect election for the post of Governor.
- Office of a governor is not a part of union executive and is an independent constitutional office. The governor doesn't serve the union government and neither is subordinate to it.
- The nomination of a governor by the Union and his appointment by the President in India is based on the Canadian model of government.

What is the term of Governor's office?

Since the Governor holds the office under the pleasure of the President, his office has no fixed term. President can remove the Governor and the grounds upon which he may be removed are not laid down in the constitution.

Governor may also get transferred from one state to another by the President. He also can be reappointed.

Note:

- An interregnum is not allowed; following which a Governor may sit in the office beyond 5 years (expiry of the term) till the new governor assumes the charge of the office.
- On President's discretion, Chief Justice of the High Court of the concerned state can also be appointed as the Governor on a temporary basis when and how the President thinks fit. (Example – On the governor's death, Chief Justice of HC can be appointed as the governor.)

Who is qualified to become a Governor?

Unlike Lok Sabha or Rajya Sabha members or even in the case of [Prime Minister](#) or President who have a set of qualifications to meet to hold the office; Governor has to meet only two qualifications:

1. He should be an Indian Citizen
2. He should be 35 years old or more

Note: There are two conventions that the government follow before nominating a person as a Governor:

1. That person is not appointed as the governor who belongs to the state. He shall be an outsider having no relation with the state he is being appointed to.
2. Consultation of the [Chief Minister](#) is taken by the President before appointing a governor

It should also be noted that both the above conventions are not absolute and have been ignored by the union government in many instances.

What are the conditions of his office?

There are a few conditions for a person to be appointed as a Governor:

1. He cannot be a member of Lok Sabha and Rajya Sabha. If he has been a member of either of the house, he should vacate the seat on his first day as Governor in the office.
2. He should not hold any office of profit.
3. For his residence, Raj Bhavan is provided to him without the payment of rent.
4. Parliament decides his emoluments, allowances and privileges.
5. When a governor is responsible for two or more states, the emoluments and allowances payable to him are shared by the states in such proportion as the President may determine.
6. Parliament cannot diminish his emoluments and allowances during his term of office.
7. He is given immunity from any criminal proceedings, even in respect of his personal acts
8. Arrest or imprisonment of Governor cannot take place. Only civil proceedings can be initiated for his personal acts that too after giving two months' of prior notice.

What are the powers and functions of Governor?

Executive Powers of the Governor

The following comes under his executive powers:

1. Every executive action that the state government takes, is to be taken in his name.
2. How an order that has been taken up his name is to be authenticated, the rules for the same can be specified by the Governor.
3. He may/may not make rules to simplify the transaction of business of the state government.
4. Chief Ministers and other ministers of the states are appointed by him.
5. It is his responsibility to appoint Tribal Welfare Minister in the states of:
 1. Chattisgarh
 2. Jharkhand
 3. Madhya Pradesh
 4. Odisha
6. He appoints the advocate general of states and determines their remuneration
7. He appoints the following people:
 1. State Election Commissioner
 2. Chairman and Members of the State Public Service Commission
 3. Vice-Chancellors of the universities in the state
8. He seeks information from the state government
9. A constitutional emergency in the state is recommended to the President by him.
10. The governor enjoys extensive executive powers as an agent of the President during the President's rule in the state.

Legislative Powers of the Governor

The following are the legislative powers of the governor:

1. It's in his power to prorogue the state legislature and dissolve the state legislative assemblies
2. He addresses the state legislature at first session of every year
3. If any bill is pending in the state legislature, Governor may/may not send a bill to the state legislature concerning the same
4. If the speaker of the legislative assembly is absent and same is Deputy Speaker, then Governor appoints a person to preside over the session
5. As President nominates 12 members in Rajya Sabha, Governor appoints $\frac{1}{6}$ of the total members of the legislative council from the fields of:
 1. Literature
 2. Science
 3. Art
 4. Cooperative Movement
 5. Social Service
6. As President nominates 2 members in the Lok Sabha, Governor nominates 1 member in state legislative assembly from Anglo-Indian Community.
7. He can consult Election Commission for the disqualification of members
8. With respect to the bill introduced in the state legislature, he can:
 1. Give his assent
 2. Withhold his assent
 3. Return the bill

4. Reserve the bill for the President's consideration (In instances where the bill introduced in the state legislature endangers the position of state High Court.)

Note: Governor can reserve the bill for the President's consideration in the following cases:

- When provisions mentioned in the bill violates the constitution (Ultra-Vires)
 - When provisions mentioned in the bill oppose [Directive Principles of State Policy](#)
 - When provisions mentioned in the bill hinders the larger interests of the country
 - When provisions mentioned in the bill concern the national importance
 - When provisions mentioned in the bill mention the acquisition of property that is dealt with Article 31A in the constitution. (Read more about [important articles in the Indian Constitution](#) in the linked article.)
1. An ordinance can be promulgated by him when either Legislative Assembly or Council (Unicameral/Bicameral) are not in session. (Read the [Ordinance Making Power of President & Governor](#) in the linked article.)
 2. The following reports are laid by him:
 1. State Finance Commission
 2. State Public Service Commission
 3. Comptroller and Auditor General (Concerning the state finance)

Financial Powers of the Governor

The following are the financial powers and functions of the Governor:

1. He looks over the state budget being laid in the state legislature
2. His recommendation is a prerequisite for the introduction of [money bill](#) in the state legislature
3. He recommends for demand for grants which otherwise cannot be given
4. Contingency Fund of State is under him and he makes advances out that to meet unforeseen expenditure
5. State Finance Commission is constituted every five years by him. (Read about [Finance Commission of India](#) in the linked article.)

Judicial Powers of the Governor

The following are the judicial powers and functions of the Governor:

1. He has following pardoning powers against punishment:
 1. Pardon
 2. Reprieve
 3. Respite
 4. Remit
 5. Commute
2. President consults the Governor while appointing judges of High Court
3. In consultation with state High Court, Governor makes appointments, postings and promotions of the district judges
4. In consultation with the state high court and state public service commission, he also appoints persons to the judicial services.

What is the Constitutional Position of Governor?

The Constitutional position of governor can be understood by the following articles:

Constitutional Position of the Governor	
Article	Provision
Article 154	He is the executive head of the state. All the executive functions will be performed by him or by the officers subordinate to him in accordance with the Constitution
Article 163	<p>He will aided and advised by the Chief Minister and Council of Ministers unless he is performing a function at his own discretion</p> <p>Note:</p> <p>The power to act at his own discretion is a power that is not given to the President.</p> <p>42nd Amendment Act made the advice of Council of Ministers' binding on the President but not on the Governor in state</p>
Article 164	<p>Council of Ministers are collectively responsible to the state legislative assembly</p> <p>Note: This provision is the foundation of the state parliamentary system</p>

The Constitution has mentioned the authority of the governor to decide the validity of his actions taken in his own discretion in circumstances where his actions are called into action.

Governor's Discretionary Powers

The Governor of state, unlike the President of India, is conferred with power to act at his own discretion. There are two categories of discretion for the governor. One is Constitutional Discretion and the other is Situational Discretion. Read more about the [Constitutional Discretion of Governor](#) in the linked article.

Important Constitutional Articles related to the Governor

IAS aspirants should know the articles in the constitution that are related to the governor:

Articles	Provisions
153	Governors of states
155	Appointment of Governor

156	Term of office of Governor
157	Qualifications for appointment as Governor
158	Conditions of Governor's office
160	Discharge of the functions of the Governor in certain contingencies
161	Power of the Governor to grant pardons and others
175	Right of the Governor to address and send messages to the house or houses of the state legislature
176	Special address by the Governor
201	Bills reserved by the Governor for consideration of the President
213	Power of Governor to promulgate ordinances
217	Governor is consulted by the President in the matter of the appointments of the judges of the High Courts
233	Appointment of district judges by the Governor
234	Appointments of persons (other than district judges) to the judicial service of the state by the Governor

Supreme Court of India

The Supreme Court is the apex level court and the court of final appeal in India. The Constitution (Article 124) provides: “There shall be, a Supreme Court of India.” It enjoys supreme judicial authority in the country. The whole of judicial administration is organised and run in accordance with the orders and rules of the Supreme Court. Its decisions bind all courts, all people and all institutions. No appeal lies against its decisions. India is a federal State and has a **single and unified judicial system with three tier structure**, i.e. Supreme Court, High Courts and Subordinate Courts.

Brief History of the Supreme Court of India

The promulgation of **Regulating Act of 1773** established the **Supreme Court of Judicature at Calcutta** as a **Court of Record, with full power & authority**. It was established to hear and determine all complaints for any crimes and also to entertain, hear and determine any suits or actions in **Bengal, Bihar and Orissa**. The **Supreme Courts at Madras and Bombay** were established by **King George – III** in **1800 and 1823** respectively. The **India High Courts Act 1861** created High Courts for various provinces and **abolished Supreme Courts at Calcutta, Madras and Bombay** and also the **Sadar Adalats in Presidency towns**. These High Courts had the distinction of being the highest Courts for all cases till the creation of **Federal Court of India** under the **Government of India Act 1935**. The **Federal Court** had jurisdiction to solve disputes between provinces and federal states and hear appeal against Judgements from High Courts. After India attained independence in 1947, the Constitution of India came into being on **26 January 1950**. The **Supreme Court of India** also came into existence and its first sitting was held on 28 January 1950.

The law declared by the Supreme Court is **binding on all Courts** within the territory of India. It has the power of **judicial review** – to strike down the legislative and executive action contrary to the provisions and the scheme of the constitution, the distribution of power between Union and States or inimical to the fundamental rights guaranteed by the Constitution.

Constitutional Provisions

The Indian constitution provides for a provision of Supreme Court under **Part V (The Union)** and **Chapter 6 (The Union Judiciary)**. **Articles 124 to 147 in Part V** of the Constitution deal with the organisation, independence, jurisdiction, powers and procedures of the Supreme Court. The Indian constitution under **Article 124(1)** states that there shall be a Supreme Court of India constituting of a Chief Justice of India (CJI) and, until Parliament by law prescribes a larger number, of not more than seven other Judges. The Jurisdiction of the Supreme Court of India can broadly be categorised into **original jurisdiction, appellate jurisdiction and advisory jurisdiction**. However, there are other multiple powers of the Supreme Court.

Organisation of Supreme Court

At present, the Supreme Court consists of thirty-one judges (one chief justice and thirty other judges). **Supreme Court (Number of Judges) Bill of 2019** has added four judges to strength. It increased the judicial strength from 31 to 34, including the CJI.

Originally, the strength of the Supreme Court was fixed at eight (one chief justice and seven other judges). The Parliament is authorised to regulate them.

Seat of Supreme Court

The **Constitution declares Delhi as the seat of the Supreme Court**. It also authorises the **CJI** to appoint other place or places as seat of the Supreme Court.

He can take decision in this regard only with the approval of the President. **This provision is only optional and not compulsory**. This means that no court can give any direction either to the President or to the Chief Justice to appoint any other place as the seat of the Supreme Court.

Appointment of Judges

- The **judges of the Supreme Court** are appointed by the **President**. The CJI is appointed by the President after **consultation with such judges of the Supreme Court** and high courts as he deems necessary.
- The other judges are appointed by the President after **consultation** with the CJI and such other judges of the Supreme Court and the high courts as he deems necessary. The consultation with the chief justice is **obligatory** in the case of appointment of a judge other than Chief justice.
- **Appointment of Chief Justice From 1950 to 1973:** The practice has been to appoint the senior most judge of the Supreme Court as the chief justice of India. This established convention was violated in 1973 when **A N Ray** was appointed as the **Chief Justice of India by superseding three senior judges**. Again in 1977, M U Beg was appointed as the chief justice of India by superseding the then senior-most judge.

This discretion of the government was curtailed by the Supreme Court in the **Second Judges Case (1993)**, in which the Supreme Court ruled that **the senior most judge of the Supreme Court should alone be appointed to the office of the Chief Justice of India**.

Controversy over Consultation and Evolution of Collegium system

- The Supreme Court has given different interpretations of the word 'consultation' in the above mentioned provisions.
 - In the **First Judges case (1982)**, the Court held that consultation does not mean concurrence and it only implies exchange of views.
 - In the **Second Judges case (1993)**, the Court reversed its earlier ruling and changed the meaning of the word consultation to **concurrence**.

- In the **Third Judges case (1998)**, the Court opined that the consultation process to be adopted by the **Chief Justice of India** requires '**consultation of plurality judges**'.
- The sole opinion of the CJI does not constitute the consultation process. He should consult a **collegium of four senior most judges of the Supreme Court** and even if two judges give an adverse opinion, he should not send the recommendation to the government.
- The court held that **the recommendation made by the chief justice of India** without complying with the norms and requirements of the consultation process are not binding on the government.

Collegium System

- Collegium system was born through "**three judges case**" and it is in practice since 1998. It is used for appointments and transfers of judges in High courts and Supreme Courts.
- There is no mention of the Collegium either in the original Constitution of India or in successive amendments

Working of Collegium System and NJAC

- The collegium recommends of the names of lawyers or judges to the Central Government. Similarly, the Central Government also sends some of its proposed names to the Collegium.
- Collegium considers the names or suggestions made by the Central Government and resends the file to the government for final approval.
- If the **Collegium resends** the same name again then the government has to give its assent to the names. But **time limit is not fixed** to reply. This is the reason that appointment of judges takes a long time.
- Through the **99th Constitutional Amendment Act, 2014 the National Judicial Commission Act (NJAC)** was established to replace the collegium system for the appointment of judges.
- However, the Supreme Court **upheld the collegium system and struck down the NJAC as unconstitutional** on the grounds that the involvement of **Political Executive** in judicial appointment was **against the "Principles of Basic Structure"**. I.e. the **"Independence of Judiciary"**.

Qualifications of Judges

- A person to be appointed as a judge of the Supreme Court should have the following qualifications:
 - He should be a **citizen of India**.
 - He should have been a **judge of a High Court** (or high courts in succession) **for five years; or**

- He should have been an advocate of a High Court (or High Courts in succession) for ten years; or
- He should be a **distinguished jurist in the opinion of the president.**
- The Constitution **has not prescribed a minimum age** for appointment as a judge of the Supreme Court.

Oath or Affirmation

- A person appointed as a judge of the Supreme Court, before entering upon his office, has to make and subscribe to an **oath or affirmation before the President**, or some other person appointed by him for this purpose. In his oath, a judge of the Supreme Court swears:
 - to bear true faith and allegiance to the Constitution of India;
 - to uphold the sovereignty and integrity of India;
 - to duly and faithfully and to the best of his ability, knowledge and judgement to perform the duties of the Office without fear or favour, affection or ill-will; and
 - to uphold the Constitution and the laws.

Tenure of Judges

- The Constitution has not fixed the tenure of a judge of the Supreme Court. However, it makes the following three provisions in this regard:
 - He holds office until he attains the age of 65 years. Any question regarding his age is to be determined by such authority and in such manner as provided by Parliament.
 - He can resign his office by writing to the President.
 - He can be removed from his office by the President on the recommendation of the Parliament.

Removal of Judges

- A judge of the Supreme Court can be removed from his office by an **order of the President**. The President can issue the removal order only after an address by Parliament has been presented to him in the same session for such removal.
- The address must be supported by a **special majority** of each House of Parliament (ie, a majority of the total membership of that House and a majority of not less than **two-thirds of the members** of that House present and voting). The grounds of removal are two—**proved misbehaviour or incapacity**.
- **The Judges Enquiry Act (1968)** regulates the procedure relating to the removal of a judge of the Supreme Court by the process of impeachment:

- **No judge of the Supreme Court has been impeached** so far. Impeachment motions of Justice V Ramaswami (1991–1993) and the Justice Dipak Misra (2017-18) were defeated in the Parliament.

Salaries and Allowances

- The salaries, allowances, privileges, leave and pension of the judges of the Supreme Court are **determined from time to time by the Parliament**. They cannot be varied to their disadvantage after their appointment except during a financial emergency.

Acting Chief Justice

- The President can appoint a judge of the Supreme Court as an acting Chief Justice of India when:
 - the office of Chief Justice of India is vacant; or
 - the Chief Justice of India is temporarily absent; or
 - the Chief Justice of India is unable to perform the duties of his office.

Ad hoc Judge

- When there is a **lack of quorum** of the permanent judges to hold or continue any session of the Supreme Court, **the Chief Justice of India can appoint a judge of a High Court as an ad hoc judge of the Supreme Court** for a temporary period. He can do so only after consultation with the Chief Justice of the High Court concerned and with the previous consent of the president.
- The judge so appointed should be **qualified for appointment as a judge of the Supreme Court**. It is the duty of the judge so appointed to attend the sittings of the Supreme Court, in priority to other duties of his office. While so attending, he enjoys all the jurisdiction, powers and privileges (and discharges the duties) of a judge of the Supreme Court.

Retired Judges

- At any time, the **CJI can request a retired judge** of the Supreme Court or a retired judge of a high court (who is duly qualified for appointment as a judge of the Supreme Court) to act as a judge of the Supreme Court for a temporary period.
- He can do so only with the **previous consent of the President** and also of the person to be so appointed.
 - Such a judge is entitled to such allowances as the president may determine. He will also enjoy all the jurisdiction, powers and privileges of a judge of the Supreme Court. But, he will not otherwise be deemed to be a judge of the Supreme Court.

Procedure of Court

- The Supreme Court can, with the approval of the President, make rules for regulating generally the practice and procedure of the court.

- The **Constitutional cases or references** made by the President under **Article 143** are decided by a **Bench consisting of at least five judges**. All other cases are usually decided by a bench consisting of not less than three judges. The judgements are delivered by the open court. All judgements are by majority vote but if differing, then judges can give dissenting judgements or opinions.

Independence of Supreme Court

- The Supreme Court is a **Federal court, the highest court of appeal, the guarantor of the fundamental rights of the citizens and guardian of the Constitution**.
 - Therefore, its independence becomes very essential for the effective discharge of the duties assigned to it. It should be free from the encroachments, pressures and interferences of the executive (council of ministers) and the Legislature (Parliament). It should be allowed to do justice without fear or favour.
- The Constitution has made the following provisions to **safeguard and ensure the independent and impartial** functioning of the Supreme Court:
 - Mode of appointment
 - Security of tenure
 - Fixed service conditions
 - Expenses charged on the consolidated fund
 - Conduct of judges cannot be discussed
 - Ban on practice after retirement
 - Power to punish for its contempt
 - Freedom to appoint its staff
 - Its jurisdiction cannot be curtailed
 - Separation from Executive

Jurisdiction and Powers of Supreme Court

Original Jurisdiction

- As a Federal court, the Supreme Court decides disputes between different units of the Indian Federation. More elaborately, any dispute between:
 - the Centre and one or more states; or
 - the Centre and any state or states on one side and one or more states on the other; or
 - between two or more states.
- In the above federal disputes, the Supreme Court has **exclusive original jurisdiction**.

- Further, this jurisdiction of the Supreme Court **does not extend** to the following:
 - A dispute arising out of any pre-Constitution treaty, agreement, covenant, engagement, sanad or other similar instrument.
 - A dispute arising out of any treaty, agreement, etc., which specifically provides that the said jurisdiction does not extend to such a dispute.
 - Inter-state water disputes.
 - Matters referred to the Finance Commission.
 - Adjustment of certain expenses and pensions between the Centre and the states.
 - Ordinary dispute of Commercial nature between the Centre and the states.
 - Recovery of damages by a state against the Centre.

Writ Jurisdiction

- The Supreme Court is empowered to issue writs, including **habeas corpus, mandamus, prohibition, quo-warranto and certiorari** for the enforcement of the fundamental rights of an aggrieved citizen.
 - In this regard, the Supreme Court has **original jurisdiction** in the sense that an aggrieved citizen can go directly to the Supreme Court, not necessarily by way of appeal.
 - However, the writ jurisdiction of the Supreme Court is not exclusive. The High Courts are also empowered to issue writs for the enforcement of the Fundamental Rights.

Appellate Jurisdiction

- The Supreme Court is primarily a court of appeal and hears appeals against the judgements of the lower courts. It enjoys a wide appellate jurisdiction which can be classified under four heads:
 - Appeals in constitutional matters
 - Appeals in civil matters
 - Appeals in criminal matters
 - Appeals by special leave

Advisory Jurisdiction

- The Constitution **under Article 143** authorises the President to seek the opinion of the Supreme Court in the two categories of matters:
 - On any question of law or fact of public importance which has arisen or which is likely to arise.

- On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, sanad or other similar instruments.

A Court of Record

- As a Court of Record, the Supreme Court has two powers:
 - The judgements, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony. These records are admitted to be of evidentiary value and cannot be questioned when produced before any court.
 - They are **recognised as legal precedents and legal references**.
 - It has power to **punish for contempt of court**, either with simple imprisonment for a term up to six months or with fine up to 2,000 or with both.

Power of Judicial Review

- Judicial review is the power of the Supreme Court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments.
 - On examination, if they are found to be **violative of the Constitution (ultra-vires)**, they can be declared as **illegal, unconstitutional and invalid (null and void)** by the Supreme Court. Consequently, they cannot be enforced by the Government.

Recent issues in Supreme Court

- **Master of Roster:** It refers to the privilege of the Chief Justice to constitute Benches to hear cases.
 - The controversy has emerged in the Supreme Court over **absolute power of Chief Justice** on the judicial administration.
 - The SC has upheld a number of times that “the Chief Justice is the master of the roster and he alone has the prerogative to constitute the Benches of the Court and allocate cases to the Benches so constituted.”
 - Be it the Chief Justice of India or Chief Justice of any high court it is he or she who heads the **administrative** side. This includes allocation of matters before a judge as well.
- So, no Judge can take up the matter on his own, unless allocated by the Chief Justice of India.

Position of Supreme Court of India –

The above account of the powers and jurisdiction of the Supreme Court of India clearly brings out the strong position enjoyed by it in the Indian Political System. It happens to be, as Prof.

K.V. Rao describes, “the most powerful court in the world having the largest jurisdiction.” Supreme Court of India has played and is still playing an important role in the evolution of the Constitution.

Election Commission of India

Importance of Election

A country cannot be truly democratic until its citizens have the opportunity to choose their representatives through elections that are free and fair.

Critical development efforts cannot succeed without a legitimate and democratically elected government that is responsive and accountable to its citizens. Elections provide an important opportunity to advance democratization and encourage political liberalization.

- **For an election to be free and fair**, certain civil liberties, such as the freedoms of speech, association and assembly, are required.
- **Elections can be a primary tool** to foster political openings and expand political participation.
- **Electoral processes offer political parties and civic groups an opportunity** to mobilize and organize supporters and share alternative platforms with the public.
- **Elections also serve to encourage** political debate and public dialogue.

10 elements that are essential to fair elections and political processes:

1. Impartial electoral frameworks
2. Credible electoral administration
3. Effective oversight of electoral processes
4. Informed and active citizens
5. Representative and competitive multi-party systems
6. Effective governance by elected leaders and bodies
7. Inclusion of women and disadvantaged groups
8. Effective transfer of political power
9. Consensus-building for democratic reform
10. Sustainable local engagement

Free and fair elections play a critical role in political transitions by advancing democratization and encouraging political liberalization – helping to promote peaceful, democratic political transformation that lead to increased stability and prosperity.

- In fiscal year 2012, we expanded political participation by training more than 9,800 domestic election observers and officials, and providing voter and civic education reaching more than 6.5 million people

Importance of Elections in India

Elections form the foundation of the largest democracy in the world - India. Since Independence, as many as 17 Lok Sabhas have been completed through elections, the first one being held in 1951-52. The methodology of election is through universal adult suffrage, whereby every citizen of India over 18 years of age is an eligible

Voter in the eyes of the Constitution

Elections provide a way to the people to assert their voice, opinion and choose the person whose priorities and ideas matches with them most. In India the elections are not new and they started taking place before the independence from British rule itself. But before independence the franchise was quite limited and very few were having rights to participate and vote. After independence, India adopted universal adult suffrage and each adult Indian got the right to vote.

The importance of elections in India—and for that matter, in any democracy—is as follows:

Choice of leadership: Elections provide a way for the citizens of India to choose their leaders. They do so by casting their vote in favour of the candidate or party whose views appeal to them. This ensures that the will of the people is reflected in the elected candidates.

Change of leadership: Elections in India are also a platform for the public to voice their resentment against a ruling party. By voting for other parties and helping elect a different government, citizens demonstrate that they possess ultimate authority.

Political participation: Elections open the door for new issues to be raised in public. If a citizen of India wishes to introduce reforms that are not the agenda of any of the parties, he or she is free to contest the elections either independently or by forming a new political party.

Self-corrective system: Because elections are a regular exercise, occurring every five years in India, the ruling parties are kept in check and made to consider the demands of the public. This works as a self-corrective system whereby political parties review their performance and try to appease the voters.

With a population of over 1.2 billion (according to the 2011 census) spread across 28 states and 9 union territories, India has a system of elections that is both daunting and praiseworthy.

Unknown facts about Indian Elections

1. There is an only authorized company Mysore Paints and Varnishes Private Limited which makes the indelible ink used to mark the finger after voting.
2. Electronic voting machines save 10,000 tones of paper.

3. A 6-volt alkaline battery is used to run the Electronic voting machines, it can be used in areas with no power connections.
4. This was the second time in Delhi Elections 2015, Congress won zero seats. Earlier when Congress faced a similar situation was in 1988 in the state of Uttar Pradesh.
5. Malkajgiri constituency in Hyderabad has the largest number of voters, 30 lakh in numbers.

Elections are of utmost importance in any Democratic country. As we all know, democracy is defined as a government of the people, for the people and by the people. Such governments, as in the ancient city states of Greece, can be formed with the people directly participating in them. But in countries like India, China, the U.S.A., in the U.S.S.R. or in any modern state with several million people, cannot have direct democracy.

It is not only because too many cooks are sure to spoil the broth, but it is simply not possible for any government to function with all these people clamoring to be head. This is why at regular intervals the representative governments are elected on the basis of adult franchise.

In India, which is the largest democracy in the world in terms of vastness and population, governments both at the center and in the constituent states are elected for five-year terms. The electorate of so many crores of people in this sub-continent participate in the election, held on the basis of universal adult franchise, and send their representatives to both the Parliament and the state legislatures, expecting that these representatives will safeguard their interests and work to attain the goal of progress, prosperity, unity and integrity of India as also to ensure rights and freedom of the people. In this indirect democracy the elections play the most important role in shaping the destiny of the people, and the people, while exercising their franchise, constitute the real source of power in the elections as they make their choice and elect only those in whom they have faith.

Elections are important because the people participate in elections to choose their representatives. They should have the necessary education and wisdom to elect only the right kind of people. As it happens in many democracies, including India, the impostors and swindlers take advantage of the poverty and ignorance of the people and contest elections to cash in on the gullibility of them.

The poor villagers in India who constitute the majority of the electorate are often found quite apathetic towards the sophisticated election process and they do not have the education to distinguish one from the other. Hence, the representatives, once elected, work only for self-aggrandizement and are contented only to enjoy the fruits of power for five years, doing nothing for the poor electors. When they are back again at the hustling they cajole and coax the voters with new sets of promises, or simply buy their votes with enormous money-power at their disposal. The voters, in the process, lose all their interest in the elections and they either abstain from voting or cast their votes only as a matter of ritual. Such elections are not in the finest traditions of democracy, nor does the power of such democracies emanate from the people. The people cannot always help participating in these elections, but their votes do not quite represent their choice. So the elected governments, instead of conforming to the democratic norms and values, are often

found to become authoritarian and autocratic, developing a sort of cynical disregard for people's aspirations.

Hence, it is imperative to educate the significance of voting rights among masses to ensure conscious participation of the people in the election, reserving the right to recall. For else the elections are bound to have an insignificant role in the changed scenario. And this conscious participation cannot but remain a far cry, if the majority of the electorate is left languishing in the morass of poverty, ignorance and superstitions.

What is delimitation commission in India?

Delimitation means the drawing of boundaries. The boundaries may be domestic, national and International, but the most general use of this term is in context with electoral boundaries. Article 82 (Readjustment after each census) makes provision for delimitation of the electoral boundaries. It is the process of *allocation of number of Seats and their demarcation into territories*.

Under Article 82, the Parliament by law enacts a Delimitation Act after every census. After coming into force commencement of the Act, the Central Government constitutes a **Delimitation Commission**. This Delimitation Commission demarcates the boundaries of the Parliamentary Constituencies as per provisions of the Delimitation Act.

Delimitation commissions have been set up four times in the past viz. 1952, 1963, 1973 and 2002 under Delimitation Commission acts of 1952, 1962, 1972 and 2002.

Contents

- *Purpose of Delimitation*
- *First Delimitation Commission*
- *Ban on Delimitation*
- *Delimitation and 84th Amendment Act 2002*
- *Delimitation Act 2002*
- *Current position of Delimitation*

Purpose of Delimitation

In India, the main basis for allocation of seats to various States in the Lok Sabha is **Population** of the state. The division of each state into the territorial constituencies is to be readjusted after the completion of a census so that the **Population-Seat ratio is maintained** within the state and throughout the Union. So the purpose is the Rationalization of the structure and composition of the electoral constituencies, on the principle of “**One vote and one value**”.

First Delimitation Commission

When the constitution came in existence, it had fixed the number of Seats to Lok Sabha as **not more than 500**. For the First General Elections for Lok Sabha as well as legislative Assemblies for 1951-52, the Election Commission had divided the entire country into viable territorial divisions of

parliamentary / assembly Constituencies. However, after that this task was given to the Independent Delimitation Commission. Accordingly, separate delimitation commissions were set up in 1952 (basis of 1951 census), 1962 (basis of 1961 census), 1972 (basis of 1971 census).

Ban on Delimitation

The 42nd Amendment Act 1976 had put a ban on any further delimitation of the Constituencies till the **year 2000**. So after the 42nd amendment act 1976, the total number of seats in Lok Sabha and Rajya Sabha has remained the same. This ban was imposed mostly on the account of the fear that a few states to get more seats in the Lok Sabha on the basis of a **large population may not take much interest in the family planning**. So, indirectly this was done so that states may not be biased towards the family planning measures.

Delimitation and 84th Amendment Act 2002

The 84th Amendment Act 2002 extended the freeze till the year 2026. This was based upon the calculations of the population planners that by 2026 India will be able to stabilize the population.

So next allocation of seats would be carried out on the basis of the Census after 2026 and the number of seats will not change by then. By enacting the 84th amendment Act, 2002, it was also decided to undertake readjustment and rationalization of territorial constituencies in the States, without altering the number of seats allotted to each State in the House of the People and Legislative Assemblies of the States, including the Scheduled Castes and the Scheduled Tribes constituencies, on the basis of the population ascertained at the census for the year 1991, so as to remove the imbalance caused due to uneven growth of population/electorate in different constituencies. So 84th amendment Act did two things:

- Freeze the fresh delimitation till 2026
- Allowed to readjust the seats.

The year 1991 was later altered to 2001 by 87th amendment act 2003.

Delimitation Act 2002

In pursuant with the 84th Amendment Act 2002, the Delimitation Act 2002 was passed. Under this act Delimitation Commission was constituted in July 2002. The Chairman of this commission was Justice Kuldeep Singh. Justice Kuldeep Singh was a retired Judge of the Supreme Court of India. The Ex-officio members of this Commission were an election commissioner of India and state election commissioners. So this commission started working on the basis of 1991 census data. But later in 2003, the word “1991” in the article 82 of the constitution was removed and replaced by 2001. This means that the work done till then by the commission became obsolete. The commission later restarted the work as it was now entrusted with the task of readjusting all parliamentary and assembly constituencies in the country in **all the states of India, except the state of Jammu and Kashmir**, on the basis of population ascertained in 2001 Census.

Later, The Guwahati High court stayed the delimitation exercise in respect of the Arunachal Pradesh, Assam, Nagaland, Manipur (5 states) on the basis of the disputes in the census Figures. In Manipur the work of delimitation was later resumed after Supreme Court stayed on the order of the Guwahati High Court.

Current Position of Delimitation

In the 2009 general elections, 499 out of the total 543 Parliamentary constituencies were newly delimited constituencies. This affected the National Capital Region of Delhi, the Union Territory of Puducherry and all the states except Arunachal Pradesh, Assam, Jammu & Kashmir, Jharkhand, Manipur and Nagaland. Many instances, a constituency with the same name may reflect a significantly different population demographic as well as a slightly altered geographical region.

Power and functions of Election commission of India

The Election Commission is established as an autonomous body in order to ensure free, fair and impartial elections which is even insulated from political pressures and executive influence under Article 324...

INTRODUCTION

The Election Commission is established as an autonomous body in order to ensure free, fair and impartial elections which is even insulated from political pressures and executive influence. Under Article 324(1) of Indian Constitution the Commission is setup as a permanent body. The Commission has got the jurisdiction throughout India over elections to Parliament, State legislature, Offices of President and Vice President.

The Election Commission is made as an all India body rather than separate bodies to supervise and conduct elections in each state is that some states in India consists of mixed population which in itself includes both the native people and well as other people who may be culturally, racially, linguistically different from that of native people. With a view to prevent any kind of injustice being done to any section of people, it was made as a single central body which would be free from local influences and pressures and have control over entire election machinery in the country.

COMPOSITION OF ELECTION COMMISSION

As of now, the Election Commission consists of a Chief Election Commissioner and two Election Commissioners. Article 324 of Indian Constitution confers power on the President to appoint Election Commissioners and “such other Commissioners” as he may from time to time fix. These Commissioners are appointed for the time period of 6 years, or up to the age of 65 years.

The removal procedure of the Chief Election Commissioner from office resembles the procedure of removal of a Judge of Supreme Court. The salary payable to Chief Election Commissioner is

also equal to that of a Judge of Supreme Court. The grounds for the removal of Chief Election Commissioner includes misconduct or incapacity if two third members in both Lok Sabha and Rajya Sabha give their consent to the decision. Other Election Commissioners can be removed by the President on the recommendation by the Chief Election Commissioner.

POWERS OF ELECTION COMMISSION

Power To Superintendent, Direct And Control

The Election Commission has got the power to conduct electoral rolls for all the elections of Parliament, State Legislature, Offices of President and Vice President. The Election Commission has the power of Superintendence, Direction and control over the preparation of the electoral rolls. The power of Superintendence, Direction and control which is vested in the Election Commission under Article 324(1) of the Indian Constitution are subject to the laws made by Parliament under Article 327 and it is also subject to the laws made by State Legislature under Article 328 of the Constitution.

Election Commission has been entrusted the responsibility to conducting both National and State Election, therefore Article 324(1) is considered as a plenary provision vesting the responsibility of conducting elections under the Election Commission. As Article 324(1) is a plenary provision, it there is no law or provision made by Parliament or State Legislature to meet a particular situation, Article 324 confers power on the Election Commission to act and to enact such provisions necessary to push forward free and fair elections. The Election Commission has got the power to take care of surprising situations on which there has been no law made either by Parliament or State Legislature.

Power To Order Re-Poll

Article 324 confers on the Election Commission not only the power to conduct elections but also the power to order a fresh poll. The order for re-poll may be given if there is hooliganism, breakdown of law and order at the time of polling or during counting of votes.

Power To Allot Symbols

The Election Commission is empowered by the rule 5(1) of the rules made by the Central Government under Representation Of People's Act, 1951 to specify the symbols to the candidates for elections. The Symbols Order, 1968 has also been issued by the Election Commission read with the above mentioned rules. The validity of the order has been challenged stating it to be ultra vires to the Constitution on the ground that "Election Commission has got only executive but no legislative power, but the Supreme Court has always upheld the validity of the order explaining as follows ; " In India allotment of symbols to the candidates becomes necessary so that an illiterate voter may identify the candidate of his choice and cast his vote in his favour".

Supreme Court has observed in the the case Kanhaiya Lal v. R.k. Trivedi as follows " Even if for any reason, it is held that any of the provisions contained in the symbols order are not traceable to the Act or the Rules, the power of the Election Commission under Article 324(1) of the

Constitution which is plenary in character can compass all such provisions. Article 324 of the Constitution operates in the areas left unoccupied by the legislation.

Power To Postpone The Elections

In the case *Digvijay Mote v. Union Of India* the Supreme Court has ruled that if there is any kind of disturbing situations going on in a state or in any part of the state which is preventing the conduction of free and fair elections, then the Election Commission has got the power to postpone the elections.

Power to Seek Information Regarding Election Expenses

In the case *Registered Society v. UOI*, the question regarding the "election expenses" incurred by the political parties during the time of elections was brought before the court. The main contention in the arguments were that the elections in India are solely fought on the basis of money power, therefore the people should be made aware of the expenses that are incurred by the political parties and the candidates in the process of election.

The Court ruled that the purity of election is fundamental to democracy and therefore the Election Commission has got the power to issue such directions requiring the political parties to submit to the Election Commission, for its scrutiny, the details of the expenditure incurred during elections.

Power to Issue Budgets And Expenses

The budgets of the former Secretariat, which is liable for an independent budget is finalised by the Union Finance Ministry and Election Commission. Union Finance Ministry generally upholds the recommendation made by the Election Commission. The expenses of the elections should be taken care by the concerned states and the Union territories but it is the Union Government who bears the expenses of Lok Sabha elections entirely, in case of the legislative assembly elections, the concerned state bears the expenses.

Power To Disqualify The Candidates

The power of post election disqualification of sitting members of the Parliament and State Legislature has been vested within the Election Commission. In the case where the person is found guilty of corrupt practices at elections that come before High Court or Supreme Court are also referred to the Election Commission for its opinion regarding whether such person shall be disqualified and if so, for what reason. The opinion of the Commission is binding on the President or as the case may be, the Governor to whom such opinion is tendered. The imposed disqualification on the candidate may be removed or reduced by the Election Commission.

Decriminalization Of Politics

Election Commission is seriously concerned about the existing criminalization in politics. In order to curb the criminal activities in politics it has taken variety of initiatives which are as follows;

Model Code Of Conduct

Election Commission in every election prescribes the model code of conduct for both political parties and the candidates which deals with the manner in which the political parties and the candidates should conduct themselves during elections in order to push forward free and fair elections. The Commission has also issued an order under Article 324, which says that each candidate must issue an affidavit which includes the information regarding his/her criminal antecedent, assets as well as the qualification at the time of filing his/her nomination papers.

Checking Criminalization In Politics

In order to prevent the entry of any anti social and criminal persons in the electoral arena, the Commission has urged all the political parties to come to a consensus that no person with the criminal background will be given the party ticket.

Limiting The Poll Expense

India has already experienced many elections where there has been vulgar show of money during elections. In order to get rid of such activities, the Election Commission has issued limit on the amount that can be spent by a candidate during the election campaign. Election Commission also appoints expenditure observers to keep an eye on the expenses incurred by the candidates during election campaign.

Use Of Scientific and Technological Advancements

Making use of scientific and technological advancements has been trying to bring improvements in Election procedure. Introduction of EVM's (Electronic Voting Machines) is one of the steps in that direction. There has been a drastic decrease in malpractice during elections after the introduction of EVM's and there has also been improvement in the efficiency of voting process.

Further efficient step taken by Election Commission using scientific and technological advancement is the introduction of NOTA (None Of The Above), a ballot option, which allows the voter to indicate disapproval of all the candidates in a voting system. The principle on which it is based is as follows ; " Consent requires the ability to without consent in an election"

FUNCTIONS OF ELECTION COMMISSION

Primary Functions

The primary function of the Election Commission which is entrusted by the Constitution is superintendence, direction and control of the preparation of the electoral rolls for and conduct of the elections to Parliament and to the legislature of every state and also of the elections to the offices of the President and Vice President of India.

Other primary functions of Election Commission includes demarcation of constituencies, preparation of electoral rolls, arranging sufficient staff for smoothly conducting the elections, conduction of polls, briefing the details of elections to media etc.

Other Functions

Other Functions Under The Constitution

Apart from the above primary function, the Election Commission has got an important duty of advising the President and the Governor in the matter of disqualification of sitting members of Parliament, State Legislature on all grounds other than the ground of defection (Arts. 103 and 192). Before deciding such questions, the President or as the case may be, the Governor is obliged to refer the matter to the Election Commission for its opinion and act accordingly to such opinion. The Supreme Court has held in *Brudaben Nayak v. Election Commission of India* that the President and the Governor are bound by the opinion of the Election Commission.

Other Functions Under The Law

The Election Commission has been vested with advisory jurisdiction under the law. If a person is found guilty of corrupt practice at election which comes before High Court in Election petition or before Supreme Court in election appeal, the President decides the question whether such persons should be disqualified from contesting future elections and, if so, for what period. Before deciding such questions, the President obtains the opinion of Election Commission and acts accordingly to such opinion.

Quasi Judicial Functions

All political parties wishing to contest in the elections must register themselves with the Election Commission. Such function of registration of political parties by the Election Commission has been held by the Supreme Court as quasi judicial function of the commission. The Supreme Court also held that in merger disputes between two political parties, the Election Commission exercises the judicial power of state and against whose decision an appeal shall straight away lie to Supreme Court under appellate jurisdiction under Art. 136.

CONCLUSION

Over the years, the Election Commission has conducted a number of laudable electoral reforms to strengthen democracy and enhance the fairness of elections by making efficient use of its powers. However, our system is still plagued by many vices. To win votes, political parties resort to foul methods and corrupt practices.

There is a need to strengthen the hands of the Election Commission and to give it more legal and institutional powers. The Election Commission must be entrusted with powers to punish the errant politicians who transgress and violate the electoral laws.

One Nation One Election: Merits and Demerits

Since the past few years it is observed that elections take place frequently in some states of India. So the state machinery and Election Commission of India engages its resources, manpower to conduct assembly elections in those states. Now the NDA government is thinking to go for practice of "one nation one election". Let's read this article and know about merits and demerits of the one nation one election.

India is called the largest democratic country of the world because china is the communist country despite most populous country. The general elections for the Lok Sabha and state assemblies are held at the gap of five years. But it is observed that election is a whole year process in the India.

Government spends a lot money, time and energy on the conduct of different elections. That is the reason that government of India is thinking about “One Nation One Election” system in India.

What is “One Nation One Election” System?

General elections for the Lok Sabha and State Assemblies are held at the gap of 5 years in India. But in addition to this; elections for the different State Assemblies are held in some states separately which put huge burden on the government exchequer. Now the NDA government wants to go for just one election in the whole country in the gap of 5 years.

History of “One Nation One Election” in India

If you think that the concept of “One Nation One Election” is new for India then you are wrong because “One Nation One Election” is not a unique experiment in our country. *Simultaneous elections have been conducted for the Lok Sabha and the state assemblies simultaneously in India in 1952, 1957, 1962 and 1967.*

This practice was discontinued in 1968-69, because some Legislative Assemblies were dissolved earlier due to various reasons. Since then India is trying hard to adopt the old election system but there is no consensus among the political parties.

Let’s discuss the merits and demerits of “One Nation One Election”

Merits of “One Nation One Election”

1. Money Saving: The biggest logic in the favour of the simultaneous election is the saving of government money. If the country goes for “One Nation One Election” it will save huge money. **There are 4120 MLAs in the 31 states & UTs.** The maximum expenditure limit for bigger assemblies is 28 lacs. It means if all the states & UTs go for one time election then its total cost would be around Rs. 11 billion. Usually around 5 states go for polls every year.

2. Speedy Development Work: It is observed that when the election **Model Code of Conduct** is in force then the inauguration of new projects does not take place. So one time election will ensure continuity in policies and programmes of the central and state governments.

3. Check on Black Money: It is an open secret that elections are fought with black money. A huge black turned into white money during elections in the country. So if the elections are conducted throughout the year then there is a possibility that parallel economy will grow in the country.

4. Smooth functioning of the Government Machinery: Concerned government deploys huge manpower and machinery to conduct free and fair elections in the country and states. Schools and colleges open on time; teachers and other officials are allowed to work in their respective departments which ease the life of general public.

5. Efficiency of Governance: If elections are not conducted annually then the government need not to woo general public through lucrative schemes and make caste and religion based programmes. Even State and Central Government need not to prepare lucrative budget every year and they can take tough decisions for the betterment of the economy.

Demerits of “One Nation One Election”

1. Local issues will fade out: It is observed that elections for state assemblies and Lok Sabha are fought on different issues. Regional parties target local issues while national parties target national issues. So there is a possibility that regional parties will not be able to raise the local issues strongly.

2. Hard time to Regional Parties: Regional parties will not be able to compete with national parties in terms of election expenditure and election strategy. Assembly elections are closely associated with the local issues and local voters. Hence one time election will not be accepted by the regional parties.

3. Delay in Election Results: At present when almost all the regional parties are demanding to conduct elections through ballot papers. If elections are conducted in one time mode then the elections results will be declared very late.

4. Constitutional Problems: One time election seems almost impossible due to democratic set up of the country. Suppose if elections are conducted simultaneously but it is not sure that all the states and central government will be formed by the full majority. **It is also possible that some parties make alliance government which can fall any time before 5 years.** So there is a possibility of re-election in the whole country.

5. Requirement of Huge Machinery & Resources: As we know that India is the largest democracy in the world so it will be daunting task to conduct simultaneous election in all the states, UTs and Lok Sabha.

According to the Law Commission, if the country goes for simultaneous election then the election commission need to spend Rs 4,500 crore on new EVMs.

Constitutional Amendments needed for simultaneous Elections;

1. Article 83 which deals with the duration of **Houses of Parliament**.

2. Article 85 deals dissolution of Lok Sabha by the **President**.

3. Article 172 related to duration of state legislatures.

4. Article 174 related to dissolution of state assemblies.

5. **Article 356 President's Rule** in the state.

The Representation of People Act, 1951 Act would have to be amended to build in provisions for stability of tenure for both parliament and assemblies.

Which country conducts simultaneous elections?

1. Sweden

2. Indonesia

3. South Africa

4. Germany

5. Spain

6. Hungary

7. Belgium

8. Poland

9. Slovenia

10. Albania

In the present scenario it seems tough to adopt the system of “One Nation One Election” because the regional parties will not agree to adopt this system because they have experienced the worst defeat in the recent Lok Sabha elections. So before getting the consensus of all political parties the central government need to do the required preparation for the “One Nation One Election”.

According to a survey, there are 77% chances that the Indian voter will vote for the same party for both the state and Centre when elections are held simultaneously because India is a union of states and the central government allots huge money to the government of the same party in the states.

A candidate is not free to spend as much as he/she likes in the election. The law prescribes that the total election expenditure shall not exceed the maximum limit prescribed under Rule 90 of the Conduct of Election Rules, 1961. A candidate can spend upto Rs.70 lakh, depending on the state they are contesting the Lok Sabha election. Expenditure limit in the Assembly Elections is Rs. 28 lacs in bigger states.

What is Election Model Code of Conduct?

The Election Commission of India releases the guidelines to conduct free and fair election in the country. These guidelines are also called election Model Code of Conduct. In this article, we have mentioned main points of model code of conduct for political parties and candidates.

Election Commission of India is a permanent and independent body. It is responsible for conducting the election of the Parliament, State Legislature, President and Vice President of India.

What is Election Code of Conduct?

[The Election Commission of India](#) releases the guidelines to conduct free and fair election in the country. These guidelines give the overview to the political parties and candidates about what “do and don’t” before and during the election.

In other words, Model Code of Conduct is a set of instructions to be followed by both candidates in the fray and political parties contesting elections. The Model Code of Conduct is a set of guidelines and instructions on campaigning, general conduct and meetings etc. during elections. The Model Code of Conduct remains effective till the entire elections process is not completed.

The General Conduct for all Political Parties and Candidates are as follows;

- 1.** No political party or candidate can secure votes on the basis of caste and religion. That is the reason that temples, mosques, churches and other religious places shall not be used for election propaganda/campaigning.
- 2.** No political party or candidate shall be involved in any such activity, so that there is an atmosphere of hatred and tension among the people of different castes and religions.
- 3.** [Political Parties](#) and candidates will have the right to criticize the policies and programs, past records and work of their opposition parties. Parties and candidates shall refrain themselves from commenting on the personal life or family of any candidate.
- 4.** Threatening voters, giving bribe, campaigning in the periphery of 100 meters from polling booths, organizing a public meeting within 48 hours of polling, and arranging transport “to and from” the polling booths is also prohibited.

5. No political parties or candidates shall permit its or his followers to use the land, building, compound, wall, vehicle without the permission of the property owner for pasting pamphlets, banners, displaying party flags, writing slogans etc.

6. Political parties or candidates shall ensure that their supporters neither obstruct the meeting and rally of the opposition parties or candidates nor distribute pamphlets in the meeting organised by the opposition parties.

7. Political parties or the candidates shall have to seek prior permission from the police or concerned authorities of the area before organizing the meeting at any place so that traffic and other necessary arrangements can be made.

8. If a Political party or a candidate is about to organize the procession, then 'it or he' has to inform; (about its time, path of procession, place of starting of procession and the place where the procession will end) to the concerned authorities.

9. Political parties or candidates shall ensure that the **identity slip given to the voters on the day of polling shall be printed on the plain (white) paper**. The Slip shall not have name/symbol of any political party or the candidate.

10. The Voters should not be served alcohol, etc. on the day of polling and 24 hours prior polling.

11. The ruling party's ministers shall not use government machinery like government employees, vehicles, government buildings during elections campaigning.

12. The ruling party shall not have monopoly over public places, helipads and aircrafts, the candidates of other parties will also be able to use them with the same conditions as the ruling party is following.

13. No advertisement will be published or displayed at the cost of public exchequer through newspapers & other media during the election. Other media will also not be used to disseminate the achievements of the government.

14. The ministers and other authorities shall not sanction grants/payments out of discretionary fund from the date elections are announced by the commission.

15. Since the elections dates are announced by the Election Commission, the ministers and other officials shall not do the following tasks;

a. Announce any financial grant or any new scheme or promise thereof.

b. Make any promise of construction of roads, provision of drinking water facilities etc.

c. Lay foundation stones etc. of project or scheme of any kind (except civil servants).

d. Make any ad-hoc appointments in government, public undertakings etc.

The commission shall announce the date of any election which shall be a date ordinarily not more than 3 weeks prior to the date on which the notification is likely to be issued in respect of such elections.

After reading the above points you may have understood that the Election Commission adopts the necessary measures to conduct fair and peaceful elections in the country. However, in practice, it has been observed that the guidelines issued by the Election Commission are not executed appropriately, which concludes that there is a strong need of the election reforms in the country.

ELECTORAL SYSTEM IN INDIA: FLAWS AND REFORMS

Majority of the nations and their governments strive for the development and welfare of its people. In a democratic setup such as ours It is our politicians- the representatives- the law makers, and the people who lay foundation for the development. And it is the Election

Commission which is vested under Article 324 of Indian Constitution with the duty of conducting free and fair elections in the country. By this we could understand the importance of electoral system in our society, in our development!

Mere conducting of elections periodically doesn't prove that we are republic and have an effective democracy. It is the way elections are held, the quality of people elected, their performances that make our democracy effective. In current scenario, the widespread disillusion in our political system is well visible. The poverty, unemployment, illiteracy levels indicate the inefficiency of our political system. Even after 60 years of our independence, our people suffer from lack of basic amenities in life. If a law is passed as to those with criminal and corruption charges are to be disqualified then around 93 MPs and 10 ministers in Man Mohan Singh's ministry stand disqualified. This is appalling! We can't put the entire blame for current state of affairs on our political system because it is not functioning in vacuum. The society has share in the blame. The behavior of our political system is its response to the society and to reform our political system, we need to reform society and its subsystems. This is where electoral reform becomes important.

Although there has been many changes made from time to time on our electoral system, yet there were no significant and substantial reforms brought about. The reports of Dinesh Goswami Committee on Electoral Reforms (1990), Indrajit Gupta Committee on State Funding of Elections (1998), Law Commission's Report on Reform of the Electoral Laws (1999), NCRWC (National Commission to Review the Working of the Constitution) went in vain without implementation. It is high time, The Representation of People Act (RPA), 1951 needs to be rewritten to bring the country under the able hands.

Let us go through some of the flaws found and the proposed reforms by the Election Commission of India and others.

- Candidates do not disclose all the cases of conviction and pending charges against them. They provide wrong and incomplete information regarding their assets, liabilities, and income and educational qualifications. People have the right to know whom they are voting for, is he genuine enough to be elected, can he be an effective, impersonal, visionary leader to lead them.

RPA should be amended to include all the items in affidavit and making falsedeclarations in connection with election to be an offence.

- The security deposit for candidates contesting for Lok Sabha is Rs.10000 and for State Assemblies, Council of States and Legislative Council is Rs.5000. Many non serious candidates file nomination only with an intention to disrupt the election process. This will bring unnecessary expenditure, stress, difficulty in maintenance of law and order, more ballot machines etc. As per recent amendment a candidate can contest from at most 2 constituencies. But in many cases candidate wins both, he selects any one and need arises for bye election leading to unnecessary expenditure.

EC proposes that candidate should contest from only one constituency and if not then such candidates should deposit Rs.500000 to Rs1000000 to bear bye election expenditure. The security deposit has to be increased to discourage non serious candidates.

- Criminalization of politics is the most critical flaw which is ruining all beauty of the system. A candidate becomes victorious by the muscle and money power rather than his works, conducts or ideals. They take the help of big business tycoons and criminals to win. In return they bias their power towards these anti- social elements which adversely affect our society. Now the criminals themselves are entering politics. The Law Breakers are the Law Makers! The long delay in our judicial system, increased corruption in public life, the first- past- the- post system in which 25% to 28% of valid votes assure victory in practice, prevalence of illiteracy and poverty are encouraging the criminal elements.

The person who is accused of serious criminal offences and where the court is prima facie satisfied about his involvement should be kept away from electoral arena. Transparency in public life improves transparency in elections. So, contesting candidate must disclose his assets, liabilities, convicted and pending cases against him. Introducing two ballot system and negative vote system would discourage criminal elements from being elected.

- Maintenance and auditing of accounts by political parties is not fully transparent. The Election expenditure incurred by political parties, friends and supporters of the candidate will not be counted as election expenditure of the candidate as per sub section 1 of section 77 of RPA. This section in the opinion of the SC has removed even the “fig leaf to hide the reality” of the impact of black money on the outcome of elections. In some instances, the Government functionaries resign and jump into active politics and gain votes based on their service as public servants. A good civil servant may not be guaranteed to be a good politician. They have just implemented the service rendered by the Government to the people.

Sub section 1 of section 77 of RPA must immediately be removed. Rules must be made to keep the officials out of active politics at least for five years of their retirement. No party must give ticket to a person unless he has served under the party for at least two years. This will check horse trading and prevent politics from becoming a business for the few.

- Exit polls and opinion polls will have impact on election results mainly when elections are held in phases. Govt sponsored advertisements where expenditure is incurred from public exchequer in favor of ruling party will be unfair. When the elections near, the ruling party announcing remissions to certain class to impress voters at the cost of tax payers money, dissatisfies the other class creating law and order problem. Political advertisements lead to lots of confusion. Here parties blame each other for failures, glorify the perfect world they are going to give us after coming to power.

Suitable restrictions must be imposed on publication of opinion polls. Advertisements of achievements of Government in any manner must be prohibited for six months prior to elections or from date of dissolution of the House. Suitable monitoring mechanism must be provided by the Government by amending Cable Television Network (Regulation) Rules, 1994.

- Bureaucratization of politics is also seen in the current arena. The parties can manage to get the officers in their favor to be the electoral officers in their constituencies. Sufficient measures have been taken by the Constitution itself to make the Election Commission an independent body. But still it is dependent on the Union in financial matters.

So six months prior to the elections, no transfer shall be made without the concurrence of the Commission. The expenses of the Election Commission should be charged on the Consolidated Fund of India to secure its independent functioning.

- It seem to be easy for any group of persons to be registered as political party leading to mushrooming of non- serious parties (currently around 650 out of which only 150 or so have contested in elections) creating unnecessary load in election management. Some of the parties which have become defunct still remain as functional political parties in Commission's rolls.

Commission recommends providing provisions to de-register a party and also authorize commission to regulate the registration and de-registration of political parties.

- As we all know barrels of black money flow during elections, parochial tendencies playing their role pressuring public, purchasing them, and creating impressions in their mind. Dinesh Goswami Committee had suggested of providing State funding to parties for election expenses partially. But I don't think this will in any way stop black money flow. During elections, we hear lots of common complaints from the public that their name is missing from the voters list. Thousands of officials deputed on election duties also are unable to cast votes. This murders the very purpose of electing the majority voice.

No State funding must be allowed. Commission must take necessary steps to see that not even a valid voter's name is missed. The voter's list must also be periodically amended. Postal balloting must be made a compulsory duty for officials under election duty.

This list is not exhaustive.

One of our able Chief Election Commissioner T. N. Sheshan has rightly said that in spite of making lots of rules; it is not possible to make the Electoral system fool proof. Bringing Electoral reforms is not an easy task. It is the citizens and civil society which have to work vigorously towards this along with the Government. Only those which have been accepted by the society can survive. And perhaps society has accepted corruption, inequality, harassment on the weaker section, dictatorship of the bourgeois because no strong voice has been raised against them from all corners and all classes of society. People must be well educated to understand all the faces of politics and select the best amongst the worst. Reform is needed not only for the Electoral system but for the society as a whole. Let's do what we can. Educate the innocent. Don't encourage anti- social elements. Don't be a silent spectator to the crimes. Discourage favoring, corruption, parochial tendencies like voting for caste, region, language etc. Recognize the true leaders. Demand transparency. Exercise your right to vote. Vote for values, talents and visions. Freedom we are enjoying is the fruit of the Indian freedom struggle tree to which millions of freedom fighters have poured their blood for it to grow and yield the fruit. Get started before it's too late and out of our hands.....

Demerits of Indian Election System

Since the adoption of the Indian Constitution in 1950, 14 general elections and many elections of various State Legislative Assemblies have been held. Although these elections were generally

free and fair, yet some weaknesses of our election system have been noticed. Some of these weaknesses (challenges) are as under:

(a) Expensive elections:

In India, elections are very expensive and a common man, however, intelligent and honest he may be, cannot fight elections. As a result only the rich people can fight elections and they make use of political power first to serve their own interests. They also try to make more money through illegal methods.

(b) Misuse of official machinery:

Though some steps have been taken by the Election Commission and the election laws to check the misuse of official machinery during the elections, yet the ruling party makes use of government servants, vehicles and discretionary grants to win the voters in their favour.

(c) Use of caste and religion in election:

In India, a large number of votes are cast on the basis of caste and religion. As a result people get divided on the basis of caste, religion and community which is very harmful for national unity.

(d) Rigging of election and booth capturing:

With the connivance of the government officials, the ruling party tries to rig the elections. Some candidates also capture the polling booths and make use of their muscle powers to do it. It is alleged that in J&K Assembly elections held in 1987, many candidates of the opposition front were declared losers even though they had got maximum number of votes.

(e) Misuse of mass media:

During elections the ruling party uses various means of mass media-Radios, Television and Newspapers etc.-to propagate their policies and programmes.

(f) Low polling percentage:

In India, many voters do not cast their votes. The voting percentage generally is almost 50 to 60 percent. Therefore, the representative bodies are not truly representative.

(g) Delay in the disposal of election petitions:

In India, it takes a long time in the disposal of election petitions and sometimes the very purpose of election petition gets defeated.

Remedies:

(a) To minimise the role of money in election, provisions should be made for state funding of elections.

(b) Misuse of official machinery should be checked strictly.

(c) Candidates making use of caste or religions during elections should be debarred from contesting elections.

(d) Rigging of elections by the use of muscle power and booth capturing should be strongly checked.

(e) Every party or candidate should be given a chance to make use of mass media. t

(f) Voting should be made compulsory.

(g) Election petitions should be disposed off without any delay.

The above issues should be a matter of concern to all those who believe in democracy. Many citizens, political leaders and organisations are trying to curb such tendencies by launching agitations against these malpractices. Besides voters need to become more aware of the value of their right to vote.

State Legislature

State Legislature: Organisation, Powers and Limitations on the Powers of State Legislature!

I. State Legislature:

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

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

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

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

Organisation of a State Legislature:

(A) Composition of the State Legislative Assembly (Vidhan Sabha):

The State Legislative Assembly, popularly known as Vidhan Sabha, is the lower, directly elected, popular and powerful house of the state legislature. Its membership is in proportion to the population of the state and hence it differs from state to state. The members are directly

elected by the people of the state through a secret ballot, simple majority vote victory and single member territorial constituency system. Orissa Legislative Assembly has 147 members.

A citizen of India, who is not less than 25 years of age and who fulfills every other qualification as laid down by a law can become its member by winning an election from any constituency in the state. However, no person can simultaneously be a member of two Houses of the Parliament or of any other State Legislature.

The normal term of Legislative is 5 years. However, it can be dissolved by the Governor at any time. It can be suspended or dissolved when an emergency under Art. 356 is proclaimed in the state. In May 2009, in the Orissa Legislative Assembly elections the BJD won 103 seats while the Congress got 26, the BJP 6 and independents and other 12 seats.

(B) Composition of State Legislative Council:

At present only 6 States — Andhra Pradesh, UP, Maharashtra, Karnataka, J&K and Bihar—have Legislative Councils. The popular name of the State Legislative Council is Vidhan Parishad. The total membership of a Legislative council cannot be normally less than 40 and more than 1/3rd of the total membership of the State Legislative Assembly.

Andhra Pradesh Vidhan Parishad has 90 members UP Vidhan Parishad 100, Maharashtra Vidhan Parishad 78, Bihar Vidhan Parishad 75 and Karnataka Vidhan Parishad 75 members. The membership of Vidhan Parishad includes elected as well as nominated representatives from several types of constituencies.

The following formula is used:

- (i) 1/3rd members are elected by the members of State Legislative Assembly.
- (ii) 1/3rd members are elected by local bodies of the state.
- (iii) 1/12th members are elected by teachers of at least three years standing, serving educational institutions of the state.
- (iv) 1/12 members are elected by state university graduates of not less than three years-standing.
- (v) 1/6th members are nominated by the Governor of the state.

Any citizen of India who is not less than 30 years of age, who possesses all the qualifications as laid down by the Parliament, who is not a member of any other legislature or Union Parliament can become a member of the State Legislative Council either by winning an election or by securing Governor's nomination. Legislative council is a semi-permanent House. It is never dissolved as a whole. 1/3rd of its members retire after every 2 years. Each member has a term of 6 years.

Powers and Functions of a State Legislature:

Each State Legislature exercises law-making powers over the subjects of the State List and the Concurrent List. In case a state has a unicameral legislature, i.e., in case it has only State Legislative Assembly, all the powers are exercised by it. However, even in case it is a bicameral state legislature with state Legislative Council (Vidhan Parishad) as the upper house and state

Legislative Assembly as the lower house, almost all the powers are exercised by the latter. The Legislative Council plays only a secondary and minor role.

Powers of State Legislature:

1. Legislative Powers:

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

However, he can reserve some bills passed by the State Legislature for the approval of the President of India. Further, in case a law made by the State Legislature on a concurrent subject comes into conflict with a Union Law on the same subject, the latter gets precedence over the former. In ordinary law-making, both the Houses (Legislative Assembly and Legislative Council wherever these exist together) have co-equal powers. In practice the Legislative Assembly dominates the law-making work. Most of the non-money ordinary bills are introduced in the Legislative Assembly and it plays a major role in their passing. The Legislative Council acts only as a revising and delaying second chamber.

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

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

2. Financial Powers:

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

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

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

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

3. Power to control the Executive:

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

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

4. Other Powers:

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

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

Position of a State Legislature:

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

Some Limitations on the Powers of State Legislature:

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

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

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

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

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

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

(4) Limitations during national Emergency:

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

(5) Limitations during a Constitutional Emergency:

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

(6) Discretionary Powers of the Governor:

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

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

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

Thus each state legislature in India exercises law-making powers over the subjects given to it by the Constitution. However, even in respect of these, it exercises law-making powers under the above constitutional limitations.

Political Party

Political Parties

In our country, there are several political parties that stand for the election. The presence of the political party is actually a healthy situation for the nation. It gives people a choice to make a more evolved and

effective decision. Moreover, it drives the other political parties to get better than their competitors to win elections and rule the nation. So, this is the basic backdrop of political parties. But what is a political party? Why do we need a political party? Let's find out.

Introduction to Political Party

A political party basically, is a group of people. These people come together to contest elections in order to hold power in the government. It is a way to mobilize voters to support common sets of interests, concerns, and goals. The primary role of the political party is to fix the political agenda and policies. So, each party tries to persuade people by claiming their policies are better than those of other parties.

Political Parties

In a broader perspective, a political party is a means via which the people can speak to the government and have a say in the governance of any country. So, every political party must have three key components:

Leaders

Active Members

Followers

Functions of a Political Party

Every political party has a number of functions to perform. Here we have listed some of them.

A political party contests elections by putting up candidates. In countries like the USA, the candidates are selected by members and supporters of a party. On the other hand, in countries like India, the candidates are chosen by top party leaders. Every party has different policies and programmes. Voters make a choice in accordance with the policies and programmes liked by them. In a democratic country, a large group of people that has certain similar opinions group together and form a party. Then then, give a direction to the policies adopted by the government. Those parties which lose elections form the opposition. They voice different views and criticise the government for their failures and mobilize opposition to the government. Political parties shape public opinion. With the help of the pressure groups, the parties launch movements for solving problems faced by the people. Parties even offer access to government machinery and welfare schemes. The local party leader serves as a link between the citizen and the government officer.

Importance of Political Parties

A democracy cannot exist without the presence of a political party. This is clear from the function performed by the political parties. In case, there are no political parties then: Every candidate in the election would be an independent candidate. Any individual candidate does not have the efficiency to promise any major policy change to the people. In such a scenario, no one will be responsible for how the country is run. In the long run, only a representative democracy can survive. Political parties are the agencies that gather different views on various issues and present them to the government.

Party System

There are three types of party systems:

One-Party System

Two-Party System

Multi-Party System

One-Party System

In a one-party system, there is no competition in this system. Here, the lone party nominates the candidates and the voters have only two choices i.e. Not to vote at all or write 'yes' or 'no' against the name of the candidates nominated by the party. Such a political system has been prominent in authoritarian regimes and communist countries such as China, North Korea, and Cuba. Before the collapse of communism, this system was also prevalent in USSR.

What are the Outcomes of Democracy?

Two-Party System

In a two-party system, the power shifts between two major, dominant parties. So, for winning the elections, the winner will have to get the maximum number of votes. However, please know that maximum number of votes is not equivalent to a majority of votes.

So, the smaller parties tend to merge with the bigger parties or they drop out of elections. Such a parliamentary system prevails in Canada and Great Britain, in which there are two parties holding the maximum numbers of seats.

Multi-Party System

The third and the most common form of government is the multi-party system. In such a system, there are three or more parties which have the capacity to gain control of the government separately or in a coalition.

In case, no party achieves a clear majority of the legislative seats, then several parties join forces and form a coalition government. Countries like India, follow a multi-party system. Some people are of the view, that a multi-party system often leads to political instability in a country.

Political parties exist for several reasons, but the most important is to nominate and elect candidates to office. The party has leaders, committees, workers, and members to carry out the party's programs at the local, state, and national levels. One of the most confusing aspects of political parties is the identification of the interrelated elements of political parties.

Party-in-Electorate

1 Organizing the Election Process - In any given election at any level, numerous citizens want to be elected to specific offices. One of the important party functions is to narrow the pool of those seeking office to specific party nominees. After the nominees are selected, a party platform is established so that voters can more purposefully elect their representatives.

2 Screening Candidates Parties screen candidates to help ensure that those running are indeed qualified to perform the duties of the job. When candidates are weak, they often lose party approval.

3 Facilitating Voter Choice Parties help citizens cast their votes by keeping the public informed. In general, political agendas are consistent within a party. For example, a Republican voter can understand somewhat the agenda of his or her party and how it is different than that of the Democratic party.

4 Educating Citizens Parties work to educate voters. Imagine if you had to go out on your own and conduct research on all the issues that interested you. Parties do the research for you and provide

information to help you make informed decisions as a voter.

4 Promoting Civic Participation Parties encourage citizens to become politically active by recruiting party volunteers, donors, potential candidates, and voters.

Party-as-Organization

1 Recruiting Candidates Parties try to recruit qualified candidates to run for office who can win elections. Imagine the burden on voters if there were no parties but simply dozens of individuals for whom to vote.

2 Aiding Candidates After a candidate has been recruited and screened, parties help candidates persuade voters by spreading the word about the candidate's background and qualifications as well as the party agenda. Parties provide numerous campaign services to candidates they want to see in office.

3 Aggregating Interests Parties help unite different groups so that the combined coalition helps to further a party's agenda. When the interests of several groups are blended together, the result is a party philosophy.

Party-in-Government

1 Organizing a Complex Government Parties help make connections between the three branches of government (legislative, judicial, and executive) at both the state and national levels. The American political system is highly complex. Parties help make this system less complicated for the voters whom the party represents.

2 Ensuring Accountability Parties help hold those in office accountable for their legislative decisions. For example, when the economy turns bad, it is not uncommon for the opposing party to gain control in the next election. When a party's candidates make poor decisions, the voters will replace those candidates or representatives.

The major ways of classification of Indian Political parties other than left/right or political compass are as follows.

1. All India Parties
2. Trans regional parties
3. Commercial parties
4. Ad-hock parties.

All India Parties

- All India Parties are defined as those national parties with broad based national support and is able to win at least 6% of valid votes in any four or more states at general election or state legislature elections and in addition win four or more seats to the Lok Sabha in any state or states.
- The other criteria is political parties win at least 2% valid votes in three different states , and have 11 MPs out of 543 directly elected representatives of the Lok Sabha.
- BJP, Congress , CPI (M), BSP etc., fall into this category.

Trans Regional Parties

- The second group consists of sub regional nationalism and aspirations based on the common language, culture and history of the region. These parties harness the regional aspirations irrespective of religion or language affiliations.
- Their power and voter base is confined to a state or region or geographical area.
- DMK and ADMK, Assam Gana Parishat, Telugu Desham, National Conference are some examples.

Commercial Parties

- The third groups are exclusive in the sense that they accept membership from communities of particular language or religion. They care exclusive in there membership.
- They protect and promote the interest of a particular community , basically non aggressive.
- They generally mobilize their support based on their particular sentiments .
- Akali Dal and Muslim League are some examples .

Ad Hock Parties

- This group is concentrated around powerful leader or local born state issues.
- They do not survive long and disappear soon or merge with other parties .
- BKD of Charan Singh and Kerala Congress are some examples.

Difference Between Regional Party and National Party

Regional party implies the party whose area operation is limited and so their activities are restricted to only a few states. On the other hand, **national party** refers to a political party is a registered party that operates in more than four states of the country and their area of operation extends over the entire country.

Political Parties plays an important role in the development of the country, as they are of different ideologies and approaches to social needs and the objectives of the nation. They bridge the gap between citizens and the government. A political party is accorded the status of a regional party or a national party by the Election Commission of India (ECI).

Take a read of the article excerpt that explains you the difference between regional and national party.

BASIS FOR COMPARISON	REGIONAL PARTY	NATIONAL PARTY
Meaning	Regional party refers to a political party, which has its base in a particular region and has limited objectives.	National party implies a political party that extends over the entire nation, in terms of area of influence.

BASIS FOR COMPARISON	REGIONAL PARTY	NATIONAL PARTY
Symbol	It can be changed and repeated in other state.	It has a permanent symbol that cannot be repeated.
Influences	Particular region only	Entire country
Strength	It should be strong enough in at least one or two states.	It should be strong enough in at least four states.
Aim	To promote regional interest.	To resolve national and international issues.

Key Differences Between Regional and National Parties

The difference between regional and national parties can be drawn clearly on the following grounds:

1. A regional party refers to the party that obtains a minimum of 6% of the total votes in State Assembly elections and acquires a minimum of two seats. On the contrary, if a party occupies 6% of the total votes polled in the elections of the lower house of Parliament or legislative assembly elections in four states and gains four seats in the lower house then that party is awarded the status of the national party.
2. A regional party symbol can be changed and repeated in another state. Conversely, the symbol of a national party is permanent which cannot be repeated.
3. A regional party influences a particular region or state. In contrast, a national party has an influence over entire country.
4. The regional party must win seats of at least two states. As against, a national party must win seats in at least four states.
5. The regional party aims at promoting regional interest. On the other extreme, the national party aims at resolving national and international issues.

Conclusion

Both regional and national political parties trigger the growth of the nation and work for the upliftment and welfare of the people. The national parties enjoy more privileges than regional

parties in terms of collection allowed from the party funds, as the national party can collect more, but the regional party can collect the lesser amount.

Rise of Regional Parties In India

In a democracy, political parties provide an agency to the society to gather different views on various issues and to present these to the government. They bring various representatives together so that a responsible government could be formed. They provide a mechanism to support or restrain the government, make policies, justify or oppose them. India has a multi-party system.

Political Parties in India

Every political party in India has to register with the Election Commission. The Election Commission registers political parties for the purpose of elections and grants them recognition as national or state parties on the basis of their poll performance

Recognised Parties:

Are given a unique symbol – only the official candidates of that party can use that election symbol

National Parties: A party that secures at least 6% of the total votes in Lok Sabha elections or Assembly elections in four States and wins at least four seats in the Lok Sabha is recognised as a national party.

State Parties: A party that secures at least 6% of the total votes in an election to the Legislative Assembly of a State and wins at least two seats is recognised as a State party.

According to the Election Commission of India, there are over 2000 political parties in India, which include eight "recognized national" and more than 50 "recognized state" parties.

Regional Parties in India

Other than the 8 national parties- Indian National Congress, Bharatiya Janata Party, Nationalist Congress Party, Communist Parties, Bahujan Samaj Party, Rashtriya Janata Dal, All India Trinamool Congress and National People's Party; most of the major parties of the country are classified by the Election Commission as 'State parties'. These are commonly referred to as regional parties. Yet these parties need not be regional in their ideology or outlook. Some of these parties are all India parties that happen to have succeeded only in some states. The presence of a number of ethnic, cultural, linguistic, religious and caste groups within the Indian society is greatly responsible for the origin and growth of regional parties.

In India regional parties are based on themes like– Identity, Statehood, Autonomy and Development etc. Autonomy consists of demanding greater powers to the states (like the National Conference in Jammu and Kashmir). Statehood consists of fighting for an independent state within the country (like the Telangana Rastra Samiti demanded a separate state of Telangana). Identity consists of fighting for recognition of cultural rights of a group (like the

Shiv Sena in Maharashtra or the DMK fighting for the identity of the Dalits). Development consists of regional parties believing that only they can bring development to the people of a particular region. Sometimes regional parties create these 'cultural specificities' for electoral gains.

Evolution of Regional Party

Over the last four decades, the number and strength of regional parties has expanded.

This has made the Parliament of India politically more diverse. Regional political parties have emerged to fulfill regional aspirations.

No one national party is able to secure on its own a majority in Lok Sabha. As a result, the national parties are compelled to form alliances with State parties. The regional political parties started playing a crucial role in coalition politics since 1989. It is because of the regional political parties that our party-system has been federalized. The Centre has begun to address their problems and respond their aspirations through accommodation. The evolving nature of our party system has strengthened the cooperative trends of our federal system.

Various Stages of Indian Party System

1952-64 :The Nehruvian era of national consensus

The Congress Party was the dominant party and Indian democracy was essentially a one party system also termed as 'Congress system'. Congress evolved as the party that was like a big umbrella under which all communities and interests and ideologies sought and got a place. There were many small parties competing with the Congress but they acted mainly as a kind of pressure groups.

1964-77: An Uneasy Transition

With the death of Jawahar Lal Nehru, and 1967 elections posed challenge to dominance of the congress system. The Congress failed to secure majorities in eight states and its majority in the Lok Sabha was reduced to very narrow 54% of the seats. Regional parties started growing all over the country. The dismal performance of the Congress led to a series of power struggles with in congress. Ultimately, the party was split in 1969 and Indira Gandhi's supremacy was established both in the party and the government. However, some leaders like Morarji Desai in Gujarat and JP (Jaiprakash Narain) in Bihar carried out a successful movement against Congress corruption and arbitrary rule. Their movement peaked in 1975 when Indira Gandhi for the first and only time in Indian history decided to impose in Internal emergency.

1977-80: A Period of a New Consensus and Increasing Inter-Party Conflict

New coalition emerged led by Janata Party in 1977.

This led to Emergence of a Multi-Party System in India. Many smaller parties had come together to fight the Congress dominance rather than any ideological consensus. But, the lack of ideologically coherent policy led to fall of Janata party and congress gained rise of power in

1980. 1980-89: Tussle between the Congress at the centre and the newly emerged regional parties at the state level

1989 to 2014: Multi-party system and Coalition politics

The death of Rajiv Gandhi, corruption cases (Bofors scandal), economic crisis, all set the tone for an era of coalitions that has lasted for almost twenty five years of coalition governments. The modern era of coalition politics has come into being as a consequence of the development of the multi-party system. However, this period is marred by compulsions of coalition.

Growth of Regional Parties also lead to 'rainbow' coalitions, so called because like the rainbow, they last only a short time. The period of 1996 – 1999 had 3 general elections, which cost a lot of public money. Policy paralysis and delay in decision making and bills all result from coalitions. In times of emergency, coalition coordination can lead to unacceptable delays. Coalition government can obstruct the process of decision making and the conduct of decision implementation. Coalition government has turned politics of north India into one of competition for vote banks based on caste and community etc.

On the contrary, during times of coalitions, regional parties served as a moderating force upon exclusionary national parties. Regional parties fill a vacuum for protecting minorities. The coalition politics has led to empowerment for regional parties from the states and has added to India's search for true federalism. Thus, it paves the way for a kind of 'electoral federalism'. Since 1996, twenty three regional parties have been sharing power at the national level. there is a strong sense of Indianness, or what is called a federal unifier.

2014 to now: Resurgence of One-party System?

Two general elections 2014 and 2019, saw a single party (BJP) on its own getting the full majority, breaking the 25 years of compulsions of coalition politics.

Today, the regional parties have provided a new dimension to the process of national integration and nation building. The regional parties have made a strong impact on the nature of Centre-State relations in India. They are a natural consequence of a democratic system based on adult franchise in multi-ethnic, multi-racial, multi-religious and multi-linguistic societies like India. Thus, their growth is in synergy with entire spirit of democracy.