

Module-5

Issues

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5.1 Introduction:

The Constitution of India is a unique combination of several important features. During normal times, we will have federal form of government, in which the administrative powers are distributed between the central and state governments, during emergency it will be unitary form of government in which all administrative powers are concentrated in central government. Some of the provisions may be amended easily, whereas amendment procedures for some of the provisions are very difficult. Hence to understand various issues related to this is very important.

5.2 Learning Objectives:

This Module deals with:

- Federalism – distribution of Legislative, Administrative and Finance powers of the country.
- Human Rights-features
- Environmental Protection – various initiatives
- Special provisions for SC's, ST's, Women and Children and Social justice.
- Secularism observed in India.

5.3. Indian Federalism

The Government of India (referred to as the *Union Government*) was established by the Constitution of India, and is the governing authority of a *federal union* of 28 states and 7 union territories.

Federalism is a system in which the power to govern is shared between national and provincial/state governments, creating what is often called a **federation**. Proponents are often called federalists.

Part XI of the Indian constitution defines the power distribution between the Centre and the States in India. This part is divided between legislative and administrative powers.

5.3.a. Legislative powers

The power of the states and the Centre are defined by the constitution and the legislative powers are divided into three lists, namely; Union list, States list and Concurrent list.

5.3.a.(i) Union list

Union list consists of 97 items on which the parliament has exclusive power to legislate. Some of the items are defence, armed forces, arms and ammunition, atomic energy, foreign affairs, war and peace, citizenship, extradition, railways, shipping and navigation, airways, posts and telegraphs, telephones, wireless and broadcasting, currency, foreign trade, inter-state trade and commerce, banking, insurance, control of industries, regulation and development of mines, mineral and oil resources, elections, audit of Government accounts, constitution and organisation of the Supreme Court, High Courts and union public service commission, income tax, custom duties and export duties, duties of excise.

5.3.a.(ii) States list

The state list consists of 66 items and individual states have exclusive authority to legislate on items included in this list. Some of them are - public order, police, administration of justice, prisons, local government, public health and sanitation, agriculture, animal husbandry, water supplies and irrigation, land rights, forests, fisheries, money lending, state public services and state Public Service Commission, land revenue, taxes on agricultural income, taxes on lands on buildings, estate duty, taxes on electricity, taxes on vehicles, taxes on luxuries.

5.3.a.(iii) Concurrent list

Concurrent list consists of 47 items. Both Union and State Government can make laws of these subjects. Uniformity is desirable but not essential on items in this list. Some of them are Marriage and divorce, transfer of property other than agricultural land, education, contracts, bankruptcy and insolvency, trustees and trusts, civil procedure, contempt of court, adulteration of foodstuffs, drugs and poisons, economic and social planning,

trade unions, labour welfare, electricity, newspapers, books and printing press, stamp duties.

The parliament and the state legislature have equal power to make laws on these subjects. As long as parliament doesn't pass a law on these subjects the state legislature may pass any law but once parliament enact a law on such subjects, the state law will be overruled.

The entire scheme of the distribution of Legislative powers displays a strong tendency towards a high degree of centralisation.

The Constitution vests the residuary powers of legislation with the Union.

Union Parliament can use some power over the State List in some cases

- **In the National Interest (Article 249):** National Interest has been defined but whenever parliament feels that it is necessary to pass laws on state list matters in public interest, it is covered under this Article.
- **During proclamation of emergency (Article 250):** While proclamation of emergency is in operation, Parliament shall have the power to make laws for whole or any part of the territory of India on any matter in the state list. Here emergency includes period of internal disturbances and external aggression etc.
- **On request of two or more states (Article 252):** If there is a dispute between two or more states and they pass a resolution in their assemblies to refer the matter to Parliament for any law on state list matters concerning them, the Parliament can pass law.
- **Legislation for enforcing international agreements (Article 253):** If there is any international agreement between foreign country and India, and to give effect to such agreement if a law is to be passed, the Parliament can pass the law even if the matter is contained in state list.
- **Breakdown of Constitutional machinery in a state (Article 356):** parliament can make law with respect to all state matters as regard the state in which there is breakdown of constitutional machinery and is under President Rule.

5.3.b. Financial Relationship:

In the federal form of government, both the central and the state governments function simultaneously for the development and for the welfare of the people. But for any kind of developmental activities finance is one of the essential pre-requisite. Hence, in order to ensure unity of the nation and the balanced development of different region, the constitution has made provision for the establishment of the 'Finance Commission' to decide, dictate and to control the financial relationship between the central and the state government. The finance commission will be appointed by the President for every 5 years.

Some of the provisions included in the constitution which deals with the distribution of finance between the central and the state governments are: -

Article 268:- Deals with the duties imposed by the union but collected and used by the

states (Stamp duty, Land Revenue, tax on entertainment, amusement, Excise duty on medicine.....etc).

Article 269:- Taxes imposed and collected by the Union but assigned to the states (Duties in respect of succession of property other than agricultural land, Taxes on Railway freight and fares, Taxes on stock exchange and future markets, tax on advertisements.....etc.)

Article 270:- Taxes imposed and collected by the union and will be distributed between the union and the states. (Taxes on income other than agricultural income and corporation tax). The proportion of share will be determined by Finance Commission.

Article 271:- The Union government imposes surcharge on certain goods and keeps the revenue for itself.

Article 275:- According to this article the constitution empowers the Finance Commission to decide the amount, which the union has to grant it to different states from consolidated fund of India. Apart from this, the States can make requests for borrowing for their specific projects. The Constitution makes special provisions for giving grants-in-aid to schemes that promotes the welfare of Scheduled Tribes and Backward people.

Article 360:- During the proclamation of Financial Emergency, the President can suspend the provisions relating to the division of the revenue between the Union and the States and grants-in-aid to the States. During such an emergency, the States are left only with revenues available under the State List and the other resources can be controlled as per the wishes of the Centre.

Article 280:- Along with the above said functions the finance commission also suggests several measures to the President, which are required for the sound financial system of the country.

Planning Commission is the central body which formulates plans and allocates plan resources and objectives to the States. The States are dependent upon the Union even for establishing heavy and capital goods industries within their territories.

5.3.c. Administrative Relationship:

India follows federal form of government, where the administrative powers of the country has been divided between the central and the state government. In order to avoid clashes between the central and the state government in the administrative field, the constitution framers have included a detailed provision. The objective behind all these provisions is very obvious i.e., the constitution framers wanted to have a strong central government and a relatively weak state governments. Part XI of the Constitution deals with this.

According to **Article 256:** The executive power of every state is to be exercised in such a way as to ensure compliance with the laws made by the union parliament. Further the union executive can give directions to state executive.

Even the state legislature also enjoys the power to make laws on subjects mentioned in the concurrent list. The union parliament enjoys more power in this regard i.e., in case of conflicts the union parliament will decide the final verdict.

According to **Article 257**: The union can give directions to the state regarding:

- The construction and maintenance of means of communication which are of national and military importance.
- The protection of railways and unions ultimate power to declare national highways.

Whenever the centre gives such directions to the state, the state government has to incur extra expenditure. These kind of expenditure incurred by the state will be compensated by the central government.

To facilitate smooth working of the administrative machinery of the country the constitution empowers the President to appoint inter-state council whenever necessary.

In order to have uniformity in the Administration, we have only one constitution for the entire country. We have single citizenship.

Article 250: During normal time India will have federal system but during emergencies it becomes unitary form of government, where all the state government will loose their power.

The heads of the states-Governors- are appointed by the President. Governor acts as an agent of the Centre.

To maintain minimum common administrative standards All India Services like IAS, IPS, IFS have been created and these members will be normally selected by the central government but they will be placed in key administrative positions in the state.

High court – which is the supreme judicial body at the state level- judges will be appointed by the President.

The comptroller and Auditor-general of India has an organisation managed by the officers of the Indian Audit and Accounts service – a central service, who are concerned not only with the accounts and auditing of the union government but also of the states.

The Election Commission, a body appointed by the President, is incharge of conducting elections – not only for Union but also for States.

Any bill passed by the state legislature becomes a law only after the consent of the governor and governor is an agent of the central government. Governor can reserve a bill for President's consideration.

The Chief-Justice of India has the power to resolve the conflicts between states & between state and the union.

Rajya Sabha has the power to create or abolish an All India Service. Rajya Sabha can do this by passing a resolution supported by 2/3rd majority of the members present and voting.

Article 356 empowers the President to declare constitutional emergency in any state. In such case, the State comes under the President's rule and the Governor of the State starts acting as the real executive. The State administration comes under the centre.

5.4. HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION

In the first half of the 20th century, mankind had to face two world wars in which the rights to life and freedom were violated. Naturally after the end of the Second World War in 1945, the international community decided to work for securing and protecting the human rights of all the people in the world. The UN Charter expressed the resolve to protect human rights and freedom of all. On 10th December 1948, the adoption of UN Declaration of Human Rights started the process of securing the right and freedoms of all the people in the world. Several nations followed the step and undertook the responsibility to preserve, secure, protect and defend the human rights and freedom of their people.

5.4.a. National Human Rights Commission

With a view to strengthen the process of the protection of human rights in India, the government of India decided to set up a national level an autonomous National Human Rights system. On 29th September, 1993, the President of India promulgated an ordinance for setting up a National Human Rights Commission to inquire into complaints of violations of human rights against public servants in every part of the country. On 9th December 1993, the Protection of Human Rights Bill was introduced and was accepted by Union Parliament. Through this, National Human Rights Commission was established.

5.4.a.(i) Composition:

NHRC comprises of one Chairperson and four other members. They are:

- (a) The Chairman of the NHRC must be a retired Chief Justice of India.
- (b) One member has to be either a sitting or a retired Judge of the Supreme Court of India.
- (c) One member has to be either a sitting or a retired Judge of any High Court.
- (d) Two members are to be known human rights activists and have an experience of Human rights protection work.

Besides NHRC has a Secretary General who looks after the administrative work of the Commission.

5.4.a.(ii) Appointment:

The Chairperson and the members of the NHRC are appointed by the President of India. The sitting judge of the Supreme Court or of a High Court is to be appointed as its member, on the advice of the Chief Justice of India.

5.4.a.(iii) Tenure:

The Chairperson and other members of the NHRC have a tenure of five years. However, any member who attains the age of 70 years before the completion of his tenure, has to retire from his membership. After retirement, no member can secure any appointment

under the Central or any State Government.

5.4.a.(iv) Method of Removal of Members of NHRC:

The President has the power to remove the chairperson or any other member of the NHRC even before the expiry of his full term. However, this can be done only on two grounds: (a) proven wrongful act/behavior (b) Incapacity of the member. Before removing any member, the President of India has to get an inquiry done by the Supreme Court of India. He can remove the member only when the Supreme Court finds him guilty on either ground. In case the Supreme Court does not hold him guilty, the President cannot remove him.

If a member of NHRC becomes bankrupt or gets employment during the course of his tenure or he becomes physically or mentally ill or gets imprisoned in a case which in the eyes of the President, involves moral degradation, the member will be removed by NHRC.

5.4.a.(v) Seat of the commission:

The headquarters of NHRC is located at Delhi.

5.5 Functions and Powers of NHRC:

1. To investigate complaints regarding the violations of human rights. For this purpose, the NHRC acts either *suo moto* or upon the complaints or petitions received by it.
2. To investigate the failure on the part of any public official in respect to his duties for preventing a violation of human rights.
3. To become a party in any case involving a violation of Human Rights which is being heard by the court of law. It can do so, however, with the permission of the Court.
4. To visit jails and to examine the conditions of living of the persons undergoing imprisonment or detention. To make recommendations for improving their living conditions.
5. To review the steps taken under the Constitution or laws for the protection of human rights, and to make recommendations for making such steps more effective.
6. To review all such acts/facts regarding the activities of the terrorists and militants which pose hindrances in the way of the protection of human rights, and to give suggestions for removing such hindrances.
7. To study and analyse all international treaties and conventions with a view to make recommendations for getting them implemented in the country.
8. To encourage research in the area of human rights.
9. To spread knowledge among various classes of people about their human rights.
10. To encourage the activities and role of non-governmental voluntary agencies in the sphere of the protection of human rights.
11. To prepare necessary programmes for the development of human rights.
12. In May 2004, the government of India vested the NHRC with the power to grant

interim relief in cases relating to human rights violations by the armed forces. In this respect NHRC follows a specific procedure:

- (a) Upon a complaint from an aggrieved person, the NHRC is to seek a report from the government.
- (b) After getting such a report, the NHRC is to send its own observations and recommendations to the government. In case the Commission says that there is no need for further investigation, it can end the case then and there.
- (c) The government is required to send to the Commission a report on the action taken by it on the basis of the observations/recommendations made by the NHRC.

In case the investigations reveal a violation of human rights, the NHRC can ask the concerned government or official to carry out a particular action which may be deemed to be fit by the commission. Many times NHRC will move to Supreme Court or High Court to get the required writ issued.

NHRC is a statutory and autonomous body. It has the status and power of a civil court and all its actions are supported by law.

5.6. ENVIRONMENTAL PROTECTION IN INDIA

United Nations Development Programme (U.N.D.P.) established BRUNDTLAND COMMISSION in 1983, in order to study the problems of the environment. This commission made a study for four years and submitted to U.N.D.P. in 1987 a report known as "Our Common Future". This was the first time when the concept of Sustainable Development was generated.

The U.N.D.P. annually publishes a report called the "Human Development Report".

Earlier, the economic development of a country was measured in terms of its National Income or Per Capita Income. But with the publication of Human Development Report–1994, a new criterion was set up to assess economic development.

The Human Development Report (1994) says, *"Economic growth is not an end in itself, it is only a means through which a country protects the life and opportunities of the present generation as well as the future generation. Economic growth must protect the natural system on which all life depends."*

The salient features of this report are as follows:

1. *This report talks about protecting the lives of both the present and the future generation:* This report says that every country should use its natural resources optimally and not over-exploit and exhaust it, since the future generation also has a right on it.

2. *Protecting the natural system on which all life depends:* U.N.D.P. says that earning national income should not be the only concern of any country, but protecting our natural resources should also be taken into account. We should not exploit our natural resources beyond its natural recovery rate. U. N. D. P. also makes a sincere effort to find solutions to the environmental problems which are universal in nature.
3. *It promises of opportunities which are essential for improving capabilities:* If opportunities are provided to people, they can develop their capabilities and apply those capabilities into various fields like political, economic, social etc. It promises both the present and the future generation of those opportunities, which are essential for improving capabilities.

Objectives:

- ✎ Accelerating economic growth: Improving the national income by using natural resources but not by over exploiting it.
- ✎ Economic Development: A part of the National Income earned by any country should be used for further economic development. (i.e., improving the Standard of Living, Quality of life, Human Development Index etc.)
- ✎ Protecting and preserving natural resources: It tries to ensure that the future generations also get, if not more, at least as much as the present generations has inherited from the past.
- ✎ Bring about inter-Generational Equality: It says that both the present and future generation should have equal shares of natural resources. Both the generations should have equal opportunities. Even it is our ethical duty to protect natural resources and to promise the future generations with the same kind of opportunities what we are enjoying.

Hence, protection of Environment continues to be a priority item on the Indian agenda for 21st century. A very healthy and positive development in the drive towards environment protection has been the increasing human consciousness in favour of this primary objective. The concept of sustainable development, which has found a universal support, also reflects the human commitment to check environmental pollution and to develop and adopt environment-friendly technologies.

In India the Ministry of environment and forests is the nodal agency for planning, promotion, coordination and overseeing the implementation of various environmental and forestry Programmes. The Ministry has also been designated as the nodal agency for the United Nations Environment Programme (UNEP), and the International Centre for Integrated Mountain Development (ICIMOD) and looks after the follow-up of the United Nations' conference on environment and development (UNCED). The Ministry is also entrusted with the issues relating to multilateral bodies such as the Commission on Sustainable Development (CSD), Global Environment Facility (GEF) and of regional

bodies like Economic and Social Council for Asia and Pacific (ESCAP) and South Asian Association for Regional Cooperation (SAARC) on matters pertaining to environment. Conservation and survey of flora, fauna, forests and wildlife, prevention and control of pollution, afforestation and regeneration of degraded areas and protection of environment are the mandates of Ministry. These objectives are sought to be fulfilled through environmental impact assessment, eco regeneration, assistance to organisation implementing environmental and forestry programmes, promotion of environmental and forestry research, education and training, dissemination of environmental information and international co-operation and creation of environmental awareness among all. India has been regularly monitoring the impact of development environment, and the nature level and extent of environmental pollution.

Several steps have been initiated in the direction of prevention and control of Environmental Pollution.

5.6.a. Environment Impact Assessment Programme: This programme was introduced in India in 1978. A notification was issued in January 1994 – makes Environment Impact Assessment Programme statutory for 29 categories of developmental projects under various sectors such as industrial, mining, irrigation, power, transport, tourism, communication etc., Expert Committees are constituted for different sectors, namely, Industry, Mining, Thermal Power, Nuclear Power and River valley projects, for providing expert inputs. After detailed scrutiny and assessment, the appraisal committees make their recommendations for approval or rejection of the project. Depending on the nature of the project, certain safeguards are recommended. For monitoring and timely implementation of safeguards suggested, six regional offices of the Ministry have been set at Shillong, Bhubaneswar, Chandigarh, Bangalore, Lucknow and Bhopal.

The Government has taken steps from time to time to streamline and rationalise the environmental clearance procedure by amending the Environment Impact Assessment Programme notification and by formulating policy measures.

5.6.b. Programmes for Prevention and Control of Pollution: This provides instruments in the form of legislation and regulation, fiscal incentives, voluntary agreements, educational programmes and information campaigns to prevent and control pollution of water, air and land. Since the adoption of the policy statement, the focus of activities has been on issues such as promotion of clear and low waste technologies, waste water minimisation, reuse or recycling, improvement of water quality, environment audit, natural resource accounting, development of mass-based standards, institutional and human resource development etc., the whole issue of pollution prevention and control is dealt with by a combination of command and control methods as well as voluntary regulations, fiscal measures, promotion of awareness and involvement of public. An Eco-Mark label has been introduced to label consumer products that are environmental friendly.

Under the scheme of adoption of clean technology in small-scale industries and for extending necessary technical support, training and awareness programme for personnel in Small Industry Development Organisation and for entrepreneurs are being organised. Waste minimisation circles are being established to promote group efforts in increasing productivity and improving the environmental conditions in small and medium scale industries through adoption of waste minimisation techniques. 150 Waste Minimisation Circles have been established so far in different industrial clusters.

Action Plan to control pollution for various major cities have been prepared and are being implemented by the concerned State Governments.

5.6.c. Organisation and Functions of Central Pollution Control Board: The CPCB is the national apex body for assessment, monitoring and control of water and air pollution. The executive responsibilities for enforcement of the Acts for Prevention and Control of Pollution of Water (1974) and Air (1981) and Water (1977) are carried out through the Board. The CPCB advises the Central Government on all matters concerning the prevention and control of air, water and noise pollution and provide technical services for implementing the provision of the Environment (Protection) Act, 1986. Under this act, effluent and emission standards in respect to various categories of industries have been notified. Emission standards for new diesel generator set up to 800 KW and more than 800 KW were notified in May and July 2002 respectively.

17 categories of heavily polluting industries have been identified. They are cement, thermal power plant, distilleries, sugar, fertilizer, integrated iron and steel, oil refineries, pulp and paper, petro chemicals, pesticides, tanneries, basic drugs and pharmaceuticals, dye and dye intermediates caustic soda, zinc smelter, copper smelter and aluminum smelter. These units have adopted and installed adequate facilities to control pollution.

The CPCB along with State Pollution Control Boards monitors the quality of fresh water resources through a network of 507 monitoring stations located all over the country.

5.6.d. Management of Hazardous Substances: Hazardous Substances Management Division is the nodal point for planning and over seeing the implementation of policies and programmes on management of hazardous substances and chemical emergencies. The objective is to promote safe handling, management and use of hazardous substances including hazardous chemicals and hazardous wastes in order to prevent potential damage to health and environment. The activities are carried out under three thrust areas viz., chemical safety, sound management of notified to ensure environmentally sound management of hazardous substances and wastes in the country and are being implemented in association with CPCB/SPCBs/PCCs and regular monitoring is carried out by the Ministry.

5.6.e. National River Conservation Directorate: The activities of Ganga Action Plan

(GAP) were initiated in 1985. The steering committee of National River Conservation Authority (NRCA) reviewed the progress of the GAP and necessary correction on the basis of lessons learnt and experience gained from GAP were applied to the major polluted rivers of the country under the National River Conservation Plan.

5.6.f. National Afforestation and Eco-development Board: The national afforestation and eco-development board was set up in August 1992 for promoting afforestation, tree planting, ecological restoration and eco-development activities in the country. Special attention is being given to regeneration of degraded forest areas and lands adjoining forest areas, national parks, sanctuaries and other protected areas as well as the ecologically fragile areas like the Western Himalayas, Aravalis, Western Ghats etc.,

5.6.g. National Afforestation Programme through Community Participation: This programme was launched as a component of 10th Five Year Plan. All afforestation schemes of the ministry have been brought under a single National Afforestation Programme. This was implemented through decentralised Forest Development Agencies set up at the forest division level. The forest development agencies are the confederation of Joint Forest Management Committees at the village level to provide an organic link between the forest departments and the grass root level communities.

5.6.h. National Action Programme to Combat Desertification: Through this programme, a 20 year comprehensive National Action Programme to combat desertification in the country has been prepared. Under this programme, a regional action programme for Asian Countries has been formulated to strengthen the existing capacity of the member country parties and to network with each other for effective measures to combat desertification.

5.6.i. Environmental Education, Awareness and Information: A major initiative to include environment education as a separate and compulsory subject in the education curricula has been taken by the Ministry at all levels of formal education. Apart from this, the Ministry also organises various seminars/workshops, training programmes, eco-clubs etc., A National Environmental Awareness Campaign is organised every year. The National Museum of Natural History is set up in New Delhi in 1978, is entrusted with promotion of non-formal education in the area of various aspects of environment and to conduct temporary exhibitions and a number of educational programmes and activities for school children, college youth and the general public.

The India Council for Forestry Research and Education, Dehra Dun is the apex body for forestry education and extension development in the country. The Indira Gandhi National Forest Academy, imparts in service training to India Forest Service professionals.

The Indian Plywood industries Research and Training Institute, Bangalore organises short term courses in the area of wood science.

5.6.j. Environmental Information System: As a decentralised information network for collection, collation, storage, retrieval and dissemination of environmental information, an Environmental Information System (ENVIS) was set up by the Ministry in 1982. This network has 25 subject oriented centres. No country can achieve sustainable development without achieving a high level of environmental protection.

5.7 SPECIAL PROVISIONS CREATED IN THE CONSTITUTION TO PROTECT DALITS AND BACKWARD CLASSES

In order to bring about equality among the people and to uplift the deprived classes, some special privileges or opportunities were included in the constitution. Some of them are:-

- **ARTICLE 15:** Prohibition of discrimination: No individual will be discriminated based on the caste, colour, birth, place, religion, language etc.
- **ARTICLE 19:** Abolition of untouchability. Now practicing of untouchability in any form or shape is a criminal offence.
- **ARTICLE 32:** Right to constitutional remedies: If any body harms the fundamental rights, then justice can be sought from the court of law.
- **The Directive Principles** sets guidelines to the government, to promote educational and economic interest of the weaker sections of the people especially of schedule caste and schedule tribes.
- **ARTICLE 330** of the constitution provides reservations in the lok sabha. The number of seats reserved will vary from time to time and it will be done in proportion to the population of the schedule tribes and schedule castes.
- **ARTICLE 335** of the constitution provides reservation in the state legislative assemblies. Eg. In Karnataka out of 224 seats in the assembly 28 seats for SC, 1 seat for ST, has been reserved. In Taluk panchayats, Zilla panchayats and Village panchayats the reservation is as follows: SC -15%, ST - 3%, other Backward Classes - 33.33%, Women - 33.33%.

This reservation is only a minimum limit but not maximum. They may contest for as many additional seats as they choose to do. The main objective behind providing this reservation in the legislative was to have the proper representation. As said by Ambedkar "the upliftment of the depressed classes is possible only through an initiative by the depressed classes themselves". The people who wear the shoe know where the shoe pinches. Only the poor man can know what poverty is and an exploited knows what exploitation is. Hence proper representation has to be given.

- **ARTICLE 335** says that the candidate from SC and ST should satisfy the minimum educational qualifications and other criteria's prescribed for various posts of the different services under the state. Age relaxation will also be given.
- The educational institutions maintained by the state, including universities and other institutions of higher learning, certain seats has to be reserved for students belonging to SC and ST. For these candidates the government provides fee concessions and scholarships and free hostels.
- In Government and Semi-government office services rendered by SC and ST will be considered first for promotions.
- **ARTICLE 338:** According to this article the President is empowered to constitute a special commission for SC and ST. This commission investigates the matter that deals with this community and suggests several recommendations for their upliftment.

There are some of the special privileges given to Dalits and other backward castes.

5.8 SPECIAL PRIVILEGES FOR CHILDREN

In order to stop the exploitation against children, the constitution has made certain provisions to enable the children to become decent members of society and to protect their health. Some of those provisions are:-

- **As per article 21A:** The state should provide free and compulsory education for all children without discrimination. This article was included as per the 86th amendment in 2002.
- **As per article 24:** Appointing any child, below 14 years of age for work is a criminal offence.
- **According to article 28:** No child is forced to take religious instructions in schools managed by trusts and governments.
- **In part IV of the constitution, in Directive Principles, article 39** says that no child shall be forced to take up any occupation which is not suited to their age and strength.
- **Article 51A** - The Fundamental Duty - calls upon the parents and guardians, as the case may be to provide opportunity to their children and get education between age 6 to 14 years.
- A toll free Children's helpline has been started by every state government for the protection of children.

5.9 SPECIAL PRIVILEGES CREATED IN THE CONSTITUTION FOR WOMEN

In order to stop the exploitation against women, the constitution has taken several measures. Some of them are:-

- The dowry prohibition act was passed in 1961.

- In 1956 the suppression of Immoral Traffic in Women and Girls Act (SITA) was passed
- A criminal law amendment act was passed in 1983, providing punishment of rape with a minimum of 7 years of imprisonment.
- Indecent representation of women (prohibition) act of 1986 has prohibited, according to which indecent representation of women in photographs, films and advertisement is prohibited.
- In the year 1987 Sati prevention act was introduced.
- As per the 73rd and 74th amendment of the constitution reservation of 33.33% seats in the municipal corporations as well as in the rural, local, self-governing bodies i.e. 1/3 members of the local bodies must be women.
- In order to assess the changing conditions of women in different states a national commission for women has been set up during 1990's.
- A proposal of 33 % reservation for women in Lok Sabha and Rajya Sabha has been put up in the assembly.
- The 'Karnataka State commission for women' has been constituted in 1995 to study the problems faced by women in the state and for speedy justice.
- As per the maternity benefit act of 1961, the women employees who are pregnant are entitled to take 6 weeks pre-natal and 6 weeks of post-natal leave and wages will be paid for this period.
- Scanning of an embryo has been totally prohibited.
- To protect the interests of women, women police stations have been established.
- To promote women education many schools, colleges and universities have been started.
- "Mahila Sahaya Vani" has been started by the various state government for providing legal assistance for the needy women.

5.10. SECULARISM IN INDIA

The term 'Secular' was included in the preamble through 42nd Amendment. India is a secular state, in which all religion will be treated alike and no discrimination will be made between people on the basis of the religion. People are free to have faith in any religion and the state will not force the people to follow any particular religion. The state will not interfere with the religious freedom of the citizens. It prohibits levying taxes for religious purposes. Equal respect for all religions is the guiding principle of secularism. We do not have any state religion and all religions are treated equal.

Features:

1. **The Preamble:** The Preamble of the Indian Constitution declares India to be a Sovereign, Socialist, Secular, Democratic Republic and its objective is to secure Justice, Liberty, Equality and Fraternity for the people of India.
2. **Equal Citizenship and Equal Fundamental Right:** Indian constitution

makes provision for single citizenship, that is, irrespective of place of residence he or she will be considered as a citizen of India. We do not separate citizenship on the basis of state. Moreover single citizenship refers to "One man, one vote". It represents the integration of the Indian states with the rest of India. Equal fundamental rights are given to all citizens of India without any discrimination on the basis of sex, caste, religion, age etc.,

3. **Right to Equality:** Article 14 ensures equality of all citizens before law and confers equal protection of law within the territory of India. Article 16 guarantees equality of opportunity to all citizens in matters relating to employment or appointment to any office under the state. Article 17 abolishes untouchability.
4. **Right to Freedom of Religion:** Article 25 states freedom of conscience and free profession, practice and propagation of religion. Forcible conversion stands prohibited in India. Article 26 permits the establishment and maintenance of institutions for religious and charitable purposes. Own and acquired movable and immovable property and manage its own affairs in matters of religion. Article 27 states no person shall be compelled to pay any taxes for the promotion of any religion. Article 28 says that no religious instruction can be provided in any educational institution, which is wholly maintained by the state fund. No person attending any educational institution can be forced to participate in a religious worship that may be conducted in the institution.
5. **Cultural and Educational Rights to Minorities:** Article 29 & 30 of the Indian Constitution deal with this. India is a country of different languages and cultures. So the minorities are assured of the protection of their culture, language and script. Article 30 states that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. They have the right to admit students to their institution, having their own governing bodies and to adopt their respective system of instructions. Further, the state while providing grant-in-aid to educational institutions cannot discriminate against such minority institutions. Minority institutions enjoy autonomy of operations.
6. **Universal Adult Franchise:** According to this any person (both male and female) who has attained 18 years or more than that will be given an opportunity to take part in the political affairs of the state like voting, contesting in the elections, obtaining a government job etc. They may select their representatives by casting their votes in the elections.
7. **Merit system of Recruitment:** All recruitment to civil services are made on the basis of merit which is judged through conducting of competitive examination and interviews.

5.11. Summary:

Federalism is a system, in which the power to govern is shared between national and provincial/state governments, creating what is often called as a Federation. Proponents are called as federalists. Part XI of the Indian Constitution deals with the distribution of power between the Centre and the States in India. Union List includes those subjects on which union parliament has the exclusive power to legislate. State List includes those subjects on which State government has the exclusive power to legislate and Concurrent list includes those subjects on which both Central and State governments may make rules. If they are contradictory to each other, then rules made by Central Government will prevail in existence scrapping the State rule. National Human Rights Commission strives to protect the Human Rights. Sustainable Development in relation to ecology and environment is the order of the day. Through which we aim at achieving inter generational equality. Facilities and opportunities enjoyed by the present generations should also be preserved and passed on to the future generations also. India is committed to achieve secularism – in which all religions are treated alike. Constitution includes special privileges to protect the interest of backward classes, women and children.

5.12. Self Assessment Questions

1. A system of government, in which the power to govern is shared is known as _____.
2. Those subjects, on which only Union Parliament can legislate, are included in _____.
3. _____ decides financial sharing between Union and States.
4. The Head Quarters of National Human Rights Commission is located at _____.
5. Expand UNDP.
6. Article ____ deals with the prohibition of Child Labour.
7. When was Dowry Prohibition Act was passed in India?
8. What is SITA?
9. Religious freedom is known as _____.
10. Those, who are 18 years old are given the Voting rights. This system is _____.

5.13. Terminal Questions

Answer the following questions in a word or sentence each. Each question carries 1 mark.

1. Define federalism.
2. What is Union List?

3. While article of Indian Constitution deals with the emergency provisions of President?
4. When was 'Protection of Human Rights Bill' was accepted in India?
5. Where is the head quarters of National Human Resource Commission?
6. Expand U.N.D.P
7. Which article deals with constitutional remedies of fundamental rights/
8. What does SITA stands for?
9. What do you mean by 'Secularism'?
10. Which article grants the freedom of religion to citizens of India?

Answer the following in a paragraph each. Each question carries 5 marks.

1. Write a paragraph about Union Parliament's power to make legislation over State List.
2. Narrate the financial relationship between the Union and the States?
3. Explain the administrative Relationship between the Union and the States?
4. Explain the provisions created in the constitution for the protection of Dalits and Backward Classes.
5. Which the privileges for children mentioned in the Constitution?
6. How the interest of women is protected in the Constitution of India?
7. Write a note on Secularism practiced in India?

Answer these following questions in detail. Each question carries 14 marks.

1. Critically examine 'Federalism' enacted by the Constitution of India.
2. Explain the composition, powers and functions of National Human Rights Commission.
3. Narrate the various initiatives taken by the government to protect and preserve the environment of our country and commitment to reduce global warming?
4. Mention the various privileges created for the protection of women, children, Dalits and other backward classes?

5.14 Answers

Answer for one mark questions

1. Refer to sub section 5.3
2. Refer to sub section 5.3.a.(i)
3. Refer to sub section 5.3.aa.(iii)
4. Refer to sub section 5.4.a
5. Refer to sub section 5.4.a.(v)
6. Refer to sub section 5.6
7. Refer to sub section 5.7
8. Refer to sub section 5.9
9. Refer to sub section 5.10.
10. Refer to sub section 5.10

Answer for five marks questions

1. Refer to sub section 5.3.a.(iii)
2. Refer to sub section 5.3.b.
3. Refer to sub section 5.3.c.
4. Refer to sub section 5.7
5. Refer to sub section 5.8
6. Refer to sub section 5.9
7. Refer to sub section 5.10

Answer for 14 marks questions.

1. Refer to section 5.3
2. Refer to sub section 5.4.9
3. Refer to sub sections 5.6.1 to 5.6.10
4. Refer to sub sections 5.7, 5.8 and 5.9