

Fundamentals of Indian Constituion - 22HSI17/27

Unit-II

Directive Principles of State Policy and its present relevance in Indian Society, Fundamental Duties and its scope and significance in nation. Union Executive: Parliamentary system, President, Prime minister, Union Cabinet, Parliament- LS & RS, Parliamentary committees, Important Parliamentary terminologies. Judicial System of India, Supreme court of India, and other courts, Judicial Reviews and Judicial activism.

DIRECTIVE PRINCIPLES OF STATE POLICY

Articles 36-51 under Part-IV of Indian Constitution deal with Directive Principles of State Policy (DPSP). They are borrowed from the Constitution of Ireland, which had copied it from the Spanish Constitution. This article will solely discuss the Directive Principles of State Policy, its importance in the Indian Constitution and the history of its conflict with Fundamental Rights.

What are the Directive Principles of State Policy?

The Sapru Committee in 1945 suggested two categories of individual rights. One being justiciable and the other being non-justiciable rights. The justiciable rights, as we know, are the Fundamental rights, whereas the non-justiciable ones are the Directive Principles of State Policy. DPSP are ideals which are meant to be kept in mind by the state when it formulates policies and enacts laws. There are various definitions to Directive Principles of State which are given below:

- They are an “instrument of instructions” which are enumerated in the Government of India Act, 1935.
- They seek to establish economic and social democracy in the country.
- DPSPs are ideals which are not legally enforceable by the courts for their violation.

Directive Principles of State Policy – Classification

Indian Constitution has not originally classified DPSPs but on the basis of their content and direction, they are usually classified into three types-

- ❖ **Socialistic Principles,**
- ❖ **Gandhian Principles** and,
- ❖ **Liberal-Intellectual Principles.**

The details of the three types of DPSPs are given below:

DPSP – Socialistic Principles

Definition: They are the principles that aim at providing social and economic justice and set the path towards the welfare state. Under various articles, they direct the state to:

Article36. Definition In this Part, unless the context otherwise requires, the State has the same meaning as in Part III

Article37. Application of the principles contained in this Part The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws

Article38. State to secure a social order for the promotion of welfare of the people

- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life
- (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations

Article 39. Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing

- a) that the citizens, men and women equally, have the right to an adequate means to livelihood;
- b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d) that there is equal pay for equal work for both men and women;
- e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment

Article 39A. Equal justice and free legal aid The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities

Article 40. Organisation of village panchayats The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government

Article 41. Right to work, to education and to public assistance in certain cases The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want

Article 42. Provision for just and humane conditions of work and maternity relief The State shall make provision for securing just and humane conditions of work and for maternity relief

Article 43. Living wage, etc, for workers The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co operative basis in rural areas

Article 43A. Participation of workers in management of industries 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 engaged in any industry

Article 44. Uniform civil code for the citizens The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India

Article 45. Provision for free and compulsory education for children The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years

Article 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation

Article 47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health

Article 48. Organisation of agriculture and animal husbandry The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle

Article 48A. Protection and improvement of environment and safeguarding of forests and wild life The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country

Article 49. Protection of monuments and places and objects of national importance It shall be the obligation of the State to protect every monument or place or object of artistic or historic interests, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be

Article 50. Separation of judiciary from executive The State shall take steps to separate the judiciary from the executive in the public services of the State

Article 51. Promotion of international peace and security The State shall endeavour to

- a) promote international peace and security;
- b) maintain just and honourable relations between nations;

- c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and encourage settlement of international disputes by arbitration

DPSP – Gandhian Principles

Definition: These principles are based on Gandhian ideology used to represent the programme of reconstruction enunciated by Gandhi during the national movement. Under various articles, they direct the state to:

Article 40. Organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government

Article 43. Promote cottage industries on an individual or co-operation basis in rural areas

Article 43B. Promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies

Article 46. Promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation

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

Article 48. Prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds

DPSP – Liberal-Intellectual Principles

Definition: These principles reflect the ideology of liberalism. Under various articles, they direct the state to:

Article 44. Secure for all citizens a uniform civil code throughout the country

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

Article 48. Organise agriculture and animal husbandry on modern and scientific lines

Article 49. Protect monuments, places and objects of artistic or historic interest which are declared to be of national importance

Article 50. Separate the judiciary from the executive in the public services of the State

Article 51.

- Promote international peace and security and maintain just and honourable relations between nations
- Foster respect for international law and treaty
- obligations
- Encourage settlement of international disputes by arbitration

42nd Amendment Act, 1976 added four new Directive Principles in the list:

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

Article 39A. To promote equal justice and to provide free legal aid to the poor

Article 43A. To take steps to secure the participation of workers in the management of industries

Article 48A. To protect and improve the environment and to safeguard forests and wildlife

Facts about Directive Principles of State Policy:

1. A new DPSP under **Article 38** was added by the 44th Amendment Act of 1978, which requires the State to minimise inequalities in income, status, facilities and opportunities.
2. The 86th Amendment Act of 2002 changed the subject-matter of **Article 45** and made elementary education a fundamental right under **Article 21A**. The amended directive requires the State to provide early childhood care and education for all children until they complete the age of 14 years.
3. A new DPSP under **Article 43B** was added by the 97th Amendment Act of 2011 relating to co-operative societies. It requires the state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.
4. The Indian Constitution under **Article 37** makes it clear that ‘DPSPs are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws.’

Criticism of Directive Principles of State Policy

As a point of debate, the following reasons are stated for the criticism of Directive Principles of State Policy:

1. It has no legal force
2. It is illogically arranged
3. It is conservative in nature
4. It may produce constitutional conflict between centre and state

A FUNDAMENTAL DUTIES

Article 51A. Fundamental duties It shall be the duty of every citizen of India

- a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem;
- b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- c) to uphold and protect the sovereignty, unity and integrity of India;
- d) to defend the country and render national service when called upon to do so;
- e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- f) to value and preserve the rich heritage of our composite culture;
- g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- i) to safeguard public property and to abjure violence;
- j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement

THE UNION EXECUTIVE

The President and Vice President

Article 52. The President of India There shall be a President of India

Article 53. Executive power of the Union

- 1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution

- 2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law
- 3) Nothing in this article shall
 - a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or
 - b) prevent Parliament from conferring by law functions on authorities other than the President

Article 54. Election of President The President shall be elected by the members of an electoral college consisting of the elected members of both Houses of Parliament; and the elected members of the Legislative Assemblies of the States

Article 55. Manner of election of President

- 1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President
- 2) For the purpose of securing such uniformity among the States inter se as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:
 - a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;
 - b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub clause (a) shall be further increased by one;
 - c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub clause (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one half being counted as one and other fractions being disregarded
- 3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot Explanation n this article, the expression population means the population ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census

Article 56. Term of office of President

1. The President shall hold office for a term of five years from the date on which he enters upon his office: Provided that
 - a) the President may, by writing under his hand addressed to the Vice President, resign his office;
 - b) the President may, for violation of the constitution, be removed from office by impeachment in the manner provided in Article 61:
 - c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office

2). Any resignation addressed to the Vice President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People

Article 57. Eligibility for re election A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re election to that office

Article 58. Qualifications for election as President

1. No person shall be eligible for election as President unless he
 - a) is a citizen of India,
 - b) has completed the age of thirty five years, and
 - c) is qualified for election as a member of the House of the People
2. A person shall not be eligible for election as President if he holds any office of profit under the or the Government of any State or under any local or other authority subject to the control of any of the said Governments Explanation For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice President of the Union or the Governor of any State or is a Minister either for the Union or for any State

Article 59. Conditions of Presidents office

- 1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President
- 2) The President shall not hold any other office of profit
- 3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule
- 4) The emoluments and allowances of the President shall not be diminished during his term of office

Article 60. Oath or affirmation by the President Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say swear in the name of God I, A B, do that I solemnly affirm will faithfully execute the office of President (or discharge the functions of the President) of India and will do the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well being of the people of India

Article 61. Procedure for impeachment of the President

1. When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament
2. No such charge shall be preferred unless
 - a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days notice in writing signed by not less than one fourth of the total number of members of the House has been given of their intention to move the resolution, and

- b) such resolution has been passed by a majority of not less than two thirds of the total membership of the House
3. When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented as such investigation
4. If as a result of the investigation a resolution is passed by a majority of not less than two thirds of the total membership of the House by which the charge was investigated or cause to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed

Article 62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy

- 1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term
- 2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of Article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office

Article 78. Duties of Prime Minister as respects the furnishing of information to the President, etc It shall be the duty of the Prime Minister

- a) to communicate to the President all decisions of the council of Ministers relating to the administration of the affairs of the union and proposals for legislation;
- b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council

PARLIAMENT

79. Constitution of Parliament: There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the council of States and the House of the People

80. Composition of the Council of States

(1) The Council of States shall consist of

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty eight representatives of the States and of the Union territories

(2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the fourth Schedule

[\(3\)](#) The members to be nominated by the President under sub clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely: Literature, science, art and social service

[\(4\)](#) The representatives of each State in the council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote

[\(5\)](#) The representatives of the Union Territories in the council of States shall be chosen in such manner as Parliament may by law prescribe

[81.](#) Composition of the **House of the People**

[\(1\)](#) Subject to the provisions of Article 331 the House of the People shall consist of

[\(a\)](#) not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and

[\(b\)](#) not more than twenty members to represent the Union territories, chosen in such manner as parliament may by law provide

[\(2\)](#) For the purposes of sub clause (a) of clause (1) (a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

[\(b\)](#) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State: Provided that the provisions of sub clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions

[\(3\)](#) In this article, the expression population means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census

[82.](#) Readjustment after each census Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine: Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House: Provided further that such readjustment shall take effect from such date as President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment: Provided also that until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article

[83.](#) Duration of Houses of Parliament

[\(1\)](#) The council of States shall not be subject to dissolution, but as nearly as possible one third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law

[\(2\)](#) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five

years shall operate as a dissolution of the House: Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year as a time and not extending in any case beyond a period of six months after s the Proclamation has ceased to operate

84. Qualification for membership of Parliament A person shall not be qualified to be chosen to fill a seat in Parliament unless he

(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament

85. Sessions of Parliament, prorogation and dissolution

(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session

(2) The President may from time to time

(a) prorogue the Houses or either House;

(b) dissolve the House of the People

86. Right of President to address and send messages to Houses

(1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient dispatch consider any matter required by the message to be taken into consideration

87. Special address by the President

(1) At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons

(2) Provision shall be made by rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address

88. Rights of Ministers and Attorney General in respects Houses Every Minister and the Attorney General of India shall have the right to speak in, and otherwise to take part in the proceedings of either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote Officers of Parliament.

The allocation of seats in the Rajya Sabha to be filled by the representatives of the States/Union territories is as follows:

Sl. No.	Name of the State/Union Territory	Total Number of Seats
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01	Andhra Pradesh	18
02	Arunachal Pradesh	1
03	Assam	7
04	Bihar	16
05	Chhattisgarh	5
06	Goa	1
07	Gujarat	11
08	Haryana	5
09	Himachal Pradesh	3
10	Jammu & Kashmir	4
11	Jharkhand	6
12	Karnataka	12
13	Kerala	9
14	Madhya Pradesh	11
15	Maharashtra	19
16	Manipur	1
17	Meghalaya	1
18	Mizoram	1
19	Nagaland	1
20	Orissa	10
21	Punjab	7
22	Rajasthan	10
23	Sikkim	1
24	Tamil Nadu	18
25	Tripura	1
26	Uttaranchal	3
27	Uttar Pradesh	31
28	West Bengal	16
29	The National Capital Territory of Delhi	3
30	Pondicherry	1
31	Nominated by the President under article 80 (1)(a) of the Constitution	12

The allocation of seats to the States and the Union territories is as under:

Name of State/Union Territory	Total Number of Seats
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I. States	
1. Andhra Pradesh	42
2. Arunachal Pradesh	2
3. Assam	14
4. Bihar	40
5. Chhattisgarh	11
6. Goa	2
7. Gujarat	26
8. Haryana	10
9. Himachal Pradesh	4
10. Jammu & Kashmir	6
11. Jharkhand	14
12. Karnataka	28
13. Kerala	20
14. Madhya Pradesh	29
15. Maharashtra	48
16. Manipur	2
17. Meghalaya	2
18. Mizoram	1
19. Nagaland	1
20. Orissa	21
21. Punjab	13
22. Rajasthan	25
23. Sikkim	1
24. Tamil Nadu	39
25. Tripura	2
26. Uttaranchal	5
27. Uttar Pradesh	80
28. West Bengal	42

Name of State/Union Territory	Total Number of Seats
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II. Union Territories	
1. Andaman and Nicobar Islands	1
2. Chandigarh	1
3. Dadra and Nagar Haveli	1
4. Daman and Diu	
5. The National Capital Territory of Delhi	1 7
6. Lakshadweep	
7. Pondicherry	1
8. Anglo-Indians (if nominated by the President under article 331 of the Constitution)	1 2

Prime minister

Appointment of Prime Minister

The Prime Minister of India is appointed by the President through provisions under Article 84 and Article 75.

Prime minister is the leader of the majority party or coalition of parties of Lok sabha.

When a party achieves majority the leader of that party is called upon by the President to be the Prime Minister of the country. He is considered as the real head of the country.

Constitutional Duties of Prime Minister

The constitution envisages the Prime Minister with certain rights and duties. The functions of the Prime Minister are as follows:

The Prime Minister proposes the names of the members to President for appointment as Ministers of the government;

Prime minister can reshuffle the Cabinet and decides for the distribution of charges of different ministries as well;

He presides over the meetings of the Cabinet and can also change the decisions taken by the Cabinet;

He suggests the President of India about the resignation or removal of any minister from the Cabinet;

He also directs and controls the functioning of Ministers in the Cabinet;

The Prime Minister may resign at any time and can even ask the President of India to dissolve the Cabinet.;

He can advise the President to dissolve entire Lok Sabha to conduct fresh elections;

The Cabinet stops functioning If the Prime Minister resigns from his post, and spontaneously dissolves after the death of the Prime Minister.

Rights and powers regarding Appointments:

Prime Minister can advise the President for the appointment of the following:

- Comptroller and Auditor General of India;
- Attorney General of India;
- Advocate General of India;
- Chairman and members of UPSC;
- Selection of Election Commissioners;
- Members and chairman of the Finance Commission.

Rights/Powers with regard to Parliament of India:

Prime Minister is the leader of the Lok Sabha with rights to exercise the powers as follows:

- The prime minister decides the foreign policy of the country.
- He is the speaker of the Central Government.
- He is the leader of the majority party or coalition of parties in the Parliament.
- The Prime Minister is also is the chairman of various organizations including:

1. NITI Aayog;
2. National Development Council;
3. National Integration Council;
4. Inter-state Council;
5. National Water Resources Council.

He is also the head of the disaster management team during a political level emergency.

He is also the political head of all the forces.

Dismissal of a Minister

The minister of the Lok Sabha can be removed from his post under the following conditions:

- Upon the death of the minister;
- Upon self resignation from the minister;
- If the minister is dismissed by the President, for unconstitutional his acts as per Article 75(2);
- Article 75 of the constitution states that the minister holds the office at the pleasure of the President;
- Upon direction from the Court for committing the violation of any law;
- If the minister loses the eligibility to be a member of Parliament.

Dismissal of the Cabinet

The Cabinet of Minister dissolves if:

- The Prime Minister asks the President of India to dissolve the Cabinet;
- The Prime Minister advises the President to dissolve entire Lok Sabha to conduct fresh elections;
- If the Prime Minister resigns from his post;
- The cabinet automatically dissolves after the death of the Prime Minister.

Union Cabinet

- The **Union Council of Ministers** is the principal executive organ of the Government of India,
- which is responsible for being the senior decision making body of the executive branch. It is chaired by the prime minister
- And consists of the heads of each of the executive government ministries.

- Currently, the council is headed by prime minister Narendra Modi and consists of 29 members, including the prime minister. The council is subject to the Parliament of India.
- A smaller executive body called the **Union Cabinet** is the supreme decision-making body in India; it is a subset of the Union Council of Ministers who hold important portfolios and ministers of the government
- Pursuant to Article 75(3) the Council of Ministers is responsible collectively to the lower house of the Indian Parliament , called the Lok Sabha (House of the People).
- When a bill introduced by a minister in the Lok Sabha is not approved by it, the entire council of ministers is responsible and not the minister.
- The council of ministers upon losing the confidence of Lok Sabha shall resign to facilitate the formation of a new government.
- A minister shall take any decision without being considered by the council of ministers per Article 78 (c).
- All union cabinet members shall submit in writing to the President to propose a proclamation of emergency by the president in accordance with Article 352.
- According to the Constitution of India, the total number of ministers in the council of ministers must not exceed 15% of the total number of members of the Lok Sabha.
- Ministers must be members of parliament. Any minister who is not a member of either of the houses of the parliament for six consecutive months is automatically stripped off his or her ministerial post.

Ranking:

- There are five categories of the council of ministers as given below, in descending order of rank:
- Prime Minister: Leader of the executive of the Government of India.
- Deputy Prime Minister (if any): Presides as prime minister in his absence or as the senior most cabinet minister.
- Cabinet Minister: A member of the cabinet; leads a ministry.
- Minister of State (Independent charge): Junior minister not reporting to a Cabinet Minister.
- Minister of State (MoS): Deputy Minister reporting to a Cabinet Minister, usually tasked with a specific responsibility in that ministry.

Appointment:

- Pursuant to Article 75, a minister who works at the pleasure of the president, is appointed by the President on the advice of The Prime Minister.
- Since at least the turn of the millennia, evidence indicates that an MP's electoral performance enhances the likelihood of being granted a ministerial portfolio.

Removal

- Upon death.
- Upon self resignation, or resignation or death of Prime Minister.
- Upon dismissal by the President for minister's unconstitutional acts per Article 75 (2)
- Upon direction from the Judiciary for committing violation of law.
- Upon ceasing eligibility to be a member of Parliament.

- Under the provision of "Collective Responsibility" under Article 75, the Prime Minister and the entire Council of Ministers resign if a Vote of no Confidence is passed in the Lower House (Lok Sabha) of the Indian Parliament.

THE UNION JUDICIARY

124. Establishment and constitution of Supreme Court

(1) There shall be a Supreme Court of India constituting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty five years: Provided that in the case of appointment of a Judge other than the chief Justice, the chief Justice of India shall always be consulted:

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4)

2A. The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is, in the opinion of the President, a distinguished jurist

Explanation I In this clause High Court means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India

Explanation II In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two third of the members of the House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4):

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India

125. Salaries, etc., of Judges

[\(1\)](#) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule

[\(2\)](#) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule: Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment

[126.](#) Appointment of acting Chief Justice When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason or absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose

[127.](#) Appointment of ad hoc Judges

[\(1\)](#) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India

[\(2\)](#) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court

228. Attendance of retired Judges at sittings of the Supreme Court Notwithstanding anything in this chapter, the Chief Justice of India may at any time, with the previous consent of the president, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court: Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do

[129.](#) Supreme Court to be a court of record The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself

[130.](#) Seat of Supreme Court The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint

[131.](#) Original jurisdiction of the Supreme Court Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute

[\(a\)](#) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other; or

(c) between two or more States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends: Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagements, and or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute

132. Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under Article 134A that the case involves a substantial question of law as to the interpretation of this Constitution

(2) Omitted

(3) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided Explanation For the purposes of this article, the expression final order includes an order declaring an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case

133. Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters

(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under Article 134A

(a) that the case involves a substantial question of law of general importance; and

(b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court

(2) Notwithstanding anything in Article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court

134. Appellate jurisdiction of Supreme Court in regard to criminal matters

(1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) certifies under Article 134A that the case is a fit one for appeal to the Supreme Court: Provided that an appeal under sub clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of Article 145 and to such conditions as the High Court may establish or require

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law

134A. Certificate for appeal to the Supreme Court Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of Article 132 or clause (1) of Article 133, or clause (1) of Article 134

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence, determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of Article 132, or clause (1) of Article 133 or, as the case may be, sub clause (c) of clause (1) of Article 134, may be given in respect of that case

135. Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of Article 133 or Article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law

136. Special leave to appeal by the Supreme Court

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces

137. Review of judgments or orders by the Supreme Court Subject to the provisions of any law made by Parliament or any rules made under Article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it

138. Enlargement of the jurisdiction of the Supreme Court

(1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer

(2) The Supreme Court shall have such further jurisdiction, and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court

139. Conferment on the Supreme Court of powers to issue certain writs Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of Article 32

139A. Transfer of certain cases

(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or an application made by the Attorney General of India or by a party to any such case that such questions are substantial questions of

general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself: Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court

140. Ancillary powers of Supreme Court Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution

141. Law declared by Supreme Court to be binding on all courts The law declared by the Supreme Court shall be binding on all courts within the territory of India

142. Enforcement of decrees and orders of Supreme Court and unless as to discovery, etc (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself

143. Power of President to consult Supreme Court (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon

(2) The President may, notwithstanding anything in the proviso to Article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon

144. Civil and judicial authorities to act in aid of the Supreme Court All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court

145. Rules of Court, etc

(1) Subject to the provisions of any law made by Parliament the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including

(a) rules as to the persons practising before the Court,

(b) rules as to the procedure for hearing appeals, and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;

(c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;

- [\(cc\)](#) rules as to the proceedings in the Court under Article 139A;
- [\(d\)](#) rules as to the entertainment of appeals under sub clause (c) of clause (1) of Article 134;
- [\(e\)](#) any judgment pronounced or order made by the Court may be received and rules as to the conditions the procedure for such review including the time within which applications to the Court for such review are to be entered;
- [\(f\)](#) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceeding therein;
- [\(g\)](#) rules as to the granting of bail;
- [\(h\)](#) rules as to stay of proceedings;
- [\(i\)](#) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;
- [\(j\)](#) rules as to the procedure for inquiries referred to in clause (1) of Article 317
- [\(2\)](#) Subject to the provisions of clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts
- [\(3\)](#) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under Article 143 shall be five: Provided that, where the Court hearing an appeal under any of the provisions of this chapter other than Article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion
- [\(4\)](#) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under Article 143 save in accordance with an opinion also delivered in open Court
- [\(5\)](#) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion

[146.](#) Officers and servants and the expenses of the Supreme Court

- [\(1\)](#) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct: Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission
- [\(2\)](#) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose: Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President

[\(3\)](#) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the offices and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the court shall form part of that Fund

THE HIGH COURTS IN THE STATES

[214.](#) High Courts for States There shall be a High Court for each State

[215.](#) High Courts to be courts of record Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself

[216.](#) Constitution of High Courts Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint

[217.](#) Appointment and conditions of the office of a Judge of a High Court

[\(1\)](#) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the chief Justice, the chief Justice of the High court, and shall hold office, in the case of an additional or acting Judge, as provided in Article 224, and in any other case, until he attains the age of sixty two years Provided that

[\(a\)](#) a Judge may, by writing under his hand addressed to the President, resign his office;

[\(b\)](#) a Judge may be removed from his office by the President in the manner provided in clause (4) of Article 124 for the removal of a Judge of the Supreme Court;

[\(c\)](#) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India

[\(2\)](#) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and

[\(a\)](#) has for at least ten years held a judicial office in the territory of India; or

[\(b\)](#) has for at least ten years been an advocate of a High Court or of two or more such Courts in succession; Explanation For the purposes of this clause

[\(a\)](#) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an Advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

[\(aa\)](#) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate;

[\(b\)](#) in computing the period during which a person has held judicial office in the territory of India or been an advocate of High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947 , within India as defined by the Government of India Act, 1935 , or has been an advocate of any High Court in any such area, as the case may be

[\(3\)](#) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final

[218.](#) Application of certain provisions relating to Supreme Court to High Courts The provisions of clauses (4) and (5) of Article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court

[219.](#) Oath or affirmation by Judges of High Courts Every person appointed to be a Judge of a High Court shall, before he enters upon his office, make and subscribe before the Governor of the State, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule

[220.](#) Restriction on practice after being a permanent Judge No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts Explanation In this article, the expression High Court does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement of the Constitution (seventh Amendment) Act, 1956

[221.](#) Salaries etc, of Judges

[\(1\)](#) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule

[\(2\)](#) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule: Provided that neither the allowances of a Judge nor his rights in respect of leave of absence shall be varied to his disadvantage after his appointment

[222.](#) Transfer of a Judge from one High Court to another

[\(1\)](#) The President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court

[\(2\)](#) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963 , as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix

[223.](#) Appointment of acting Chief Justice When the office of Chief Justice of High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purposes

[224.](#) Appointment of additional and acting Judges

[\(1\)](#) If by reason of any temporary increase in the business of High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specific

[\(2\)](#) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties

[\(3\)](#) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of sixty two years

[224.](#) A Appointment of retired Judges at sittings of High Courts Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court: Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do

[225.](#) Jurisdiction of existing High Courts Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution: Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction

[226.](#) Power of High Courts to issue certain writs

[\(1\)](#) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

[\(2\)](#) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories

[\(3\)](#) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without

[\(a\)](#) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme court by clause (2) of Article 32

226. A Constitutional validity of Central laws not to be considered in proceedings under Article 226 Omitted

227. Power of superintendence over all courts by the High Court

(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories interrelation to which it exercises jurisdiction

(2) Without prejudice to the generality of the foregoing provisions, the High Court may

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein: Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces

228. Transfer of certain cases to High Court If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment

228A. Special provisions as to disposal of question relating to constitutional validity of State Laws Rep by the Constitution (Forty third Amendment) Act, 1977 , sec 10, (w e f 13 4 1978)

229. Officers and servants and the expenses of High Courts

(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct: Provided that the Governor of the State may by rule require that in such cases as may be specified in the rule no

person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose: Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund

230. Extension of jurisdiction of High Courts to Union territories

(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory:

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President

231. Establishment of a common High Court for two or more States

(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory

(2) In relation to any such High Court,

(a) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction;

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the Subordinate Courts are situate; and

(c) the reference in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat: Provided that if such principal seat is in a Union territory, the references in articles 210 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India

SUBORDINATE COURTS

233. Appointment of district judges

(1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment

233. A Validation of appointments of, and judgments, etc, delivered by, certain district judges Notwithstanding any judgment, decree or order of any court,

(a)

(i) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(ii) no posting, promotion or transfer of any such person as a district judge, made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966 , otherwise than in accordance with the provisions of Article 233 or Article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of Article 233 or Article 235 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions.

234. Recruitment of persons other than district judges to the judicial service Appointment of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State

235. Control over subordinate courts The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law