

Module 3: Fundamental Duties (Article 51A) its scope and significance in Nation

Fundamental duties basically imply the moral obligations of all citizens of a country and today. There are 11 fundamental duties in India, which are written in Part IV-A of the Constitution, to promote patriotism and strengthen the unity of India. Originally, the fundamental duties of India was not a part of the Indian Constitution, in fact, they were added by the 42nd and 86th Constitutional Amendment Acts. The list of fundamental rights and duties and the Directive Principles of State Policy are sections of the Indian Constitution that elaborate on the essential obligations of the states to its citizens, along with the duties and rights that they hold as Indian citizens.

The Fundamental Duties were added in 1976, upon the recommendation of the Sardar Swaran Singh Committee, that was constituted by Indira Gandhi just after the declaration of national emergency. This committee was under the Chairmanship of Sardar Swaran Singh, India's longest-serving union cabinet minister. Based on his recommendations, the government incorporated several changes to the Constitution including the Preamble, through the **42nd Amendment**, which included the fundamental duties under the Indian Constitution.

However, by the 86th Amendment in 2002, the original 10 duties were then increased to 11, under Article 51A, Part IV-A of the Constitution of India.

3.2.2 The 10 fundamental duties are as follows:

1. To oblige with the Indian Constitution and respect the National Anthem and Flag
2. To cherish and follow the noble ideas that inspired the national struggle for freedom.
3. To protect the integrity, sovereignty, and unity of India
4. To defend the country, perform national services if and when the country requires.
5. To promote the spirit of harmony and brotherhood amongst all the people of India and renounce any practices that are derogatory to women
6. To cherish and preserve the rich national heritage of our composite culture
7. To protect, improve natural environment including lakes, wildlife, rivers, forests, etc.
8. To develop scientific temper, humanism, and spirit of inquiry
9. To safeguard all public property
10. To strive towards excellence in all genres of individual and collective activities
11. **To provide opportunities for education to children between 6-14 years of age, and duty as parents to ensure that such opportunities are being awarded to their child.**

The 11 fundamental duties look at the crisis in Indian society and become a tool for straightening it out.

India borrowed the concept of Fundamental Duties from the USSR.

- Fundamental Duties might not necessarily be legal and other enforceable provisions, but some of the legal provisions already available in regard to enforcement of Fundamental Duties

- To ensure that no disrespect is shown to the National Flag, Constitution of India and the National anthem, the Prevention of Insults to National Honour Act, 1971 was enacted.
- The Emblems and Names (Prevention of Improper Use) Act 1950 was enacted soon after independence, to prevent improper use of the National Flag and the National Anthem.
- Instructions issued from time to time on the subject have been embodied in Flag Code of India,
- Creating a feeling of insecurity or ill-will among the members of other communities, etc. has been prohibited under Section 153A of the Indian Penal Code (IPC).
- Imputations and assertions prejudicial to the national integration constitute a punishable offence under Section 153 B of the IPC.
- A Communal organization can be declared unlawful association under the provisions of Unlawful Activities (Prevention) Act 1967.
- A person indulging in a corrupt practice can be disqualified for being a Member of Parliament or a State Legislature under Section 8A of the Representation of People Act, 1951.
- Article 51A of the Constitution categorizes it's contempt of the constitution which is punishable under the Prevention of Insults to National Honour Act, 1971.

3.2.3 Scope and Significance of Fundamental Duties in Nation building:

Fundamental duties, were drafted on the lines of moral, ethical, and cultural code of conduct which to be followed by the people to uphold and protect the sovereignty, unity, and integrity of our country. It also helps the government in maintaining proper governance and enabling the proper functioning of a democratic society.

Fundamental Duties are the citizen's responsibility to realize that it is in their own interest to perform their duties and discharge their 134 legal and constitutional obligations whole-heartedly because only by doing so, individually, can they help the growth of the democratic republic collectively.

Citizens are expected to behave in accordance with the ideal code of conduct parallel to the 11 fundamental duties and **no legal action can be initiated for non-performance.**

Fundamental duties if duly respected and followed will result in

Integrity of Nation can be easily achieved.

Nationality a feeling of one nation will boost among the countrymen.

Development of nation will take place and it place a nation in a strong position.

Ideal life of ethics can be found among the people of our nation.

Awareness among the citizens for a better nation will be observed.

3.2.4 Difference between Fundamental Rights & Fundamental Duties

Fundamental Rights and Fundamental Duties are inter-related and one can't exist without the other.

Fundamental rights are the privileges granted to each individual of the country to enjoy and the Fundamental Duties are the moral responsibilities which one needs to carry out in order to respect the rights of another individual and perform social obligations.

Fundamental Rights are the freedoms guaranteed by the constitution which can't be taken away from a citizen- Fundamental Duties are the legal responsibilities bestowed upon the citizens to perform.

Fundamental Rights are considered to be the normative rules of liberty and freedom for every citizen in order to achieve a harmonious and a free lifestyle,- Fundamental Duties are the moral responsibilities of all the citizens that need to be performed by them in order to achieve prosperity and uphold the unity of the nation.

Fundamental Rights are universally available to all citizens regardless of their race, caste, religion, sex or place. of birth and are justiciable in nature, i.e. they can be taken to the court of law.- Fundamental Duties are non-justifiable and hence can't be taken to the court of law.

3.3 Schedules in the Indian Constitution

Primarily, there were only eight Schedules; however, four schedules were added after subsequent amendments. In the given below table, the summary of all twelve schedules is illustrated: Schedules (12) TIPS to remember: TEARS OF OLD PM

1. Territories. (list of states, union)
2. Emoluments (Provisions to the President , Governors etc..)
3. Affirmations (oaths and affirmations)
4. Rajya Sabha
5. Scheduled Areas
6. Other Areas
7. Federal structure (Union list, State List, Concurrent list)
8. Official languages. (initially 14, then sindhi (21 amen-1967) Konkani, Manipuri , Nepali (71st nd Amen- 1992) Santhali, Bodo, Maithili and dogri (92 nd Amen- 2003)
9. Land reforms (added by 1 st amendment in 1951)
10. Defection laws (added by 52 nd amendment in 1985)
11. Panchayath (added by 73 rd amendment in 1992)
12. Municipality. (added by 74 th amendment in 1992)

Parts (25) of the Constitution of India

Part I	The Union and its Territory	Article (1 to 4)
Part II	Citizenship	Article (5 to 11)
Part III	Fundamental Rights	Article (12 to 35)
Part IV	Directive Principles of State Policy	Article (36 to 51)
Part IVA	Fundamental Duties	Article 51 A
Part V	The Union	Article (52 to 151)
Part VI	The States	Article (152 to 237)
Part VII	The States in Part B of The First Schedule	Article (238)
Part VIII	The Union Territories	Article (239 to 243)
Part IX	Panchayaths	Article (243 Ato 243-O)
Part IXA	Municipalities	Article (243P to 243ZG)
Part X	The Schedule and Tribal Areas	Article (244 to 244A)
Part XI	Relations between the Union and the States	Article (245 to 263)
Part XII	Finance, Property, Contracts, and Suits	Article (264 to 300A)
Part XIII	Trade, Commerce, and Intercourse within the Territory of India	Article (301 to 307)
Part XIV	Service under the Union and the States	Article (308 to 323)
Part XIVA	Tribunals	Article (323A to 323B)
Part XV	Elections	Article (324 to 329A)
Part XVI	Special Provisions Relating to Certain classes	Article (330 to 342)
Part XVII	Official Language	Article (343 to 351)
Part XVIII	Emergency Provisions	Article (352 to 360)
Part XIX	Miscellaneous	Article (361 is 367)
Part XX	Amendment	Article (368)
Part XXI	Temporary, Transitional, Special Provisions	Article (369 to 392)
Part XXII	Short Title, Commencement, Authoritative Text in Hindi and Repeals	Article (393 to 395)

The Union Executive: Parliamentary System _ The President, The Prime Minister and Union Cabinet

Important feature of the Indian political system is its parliamentary form of government both at the union and state levels. Article 74 and Article 75 in our constitution deal with the parliamentary system at the centre and Articles 163 and 164 deals with the states.

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

The parliamentary form of Government is also known as cabinet government or responsible government. The Indian parliamentary government system is described as British Westminster model of government.

In the parliamentary system, there is a very close relationship between the executive and the legislature. The United Kingdom has a parliamentary form of government. In

fact, the Constitution makers of India adopted the British model, as the system of government that operated in India before 1947.

As of now, in India, we have a parliamentary form of government both at the central and state level. The main features are

1. There is a close relationship between the legislature and the executive in the Governance
2. Majority party rule- in lok sabha
3. The responsibility of the executive is to follow the orders/laws which are framed by the legislature,
4. Most of the countries following parliamentary system, including India, have bicameral legislature.
5. The party which wins the majority seats in the elections of the Lower House (Lok Sabha) will form the government. In India, the President invites the leader of the majority party will form the government. The President may invite a coalition of parties to form the government, in case, no party has got majority.
6. The executive is having the Head of the State as the nominal executive (President of India King or Queen in England), and the Council of Ministers headed by the Prime Minister are the real executives.

7. Prime Minister is the Real Executive / Head of the Government. It is the Prime Minister who is the pivot of the parliamentary executive. All the members of the Council of Ministers are appointed by the President on the recommendations of the Prime Minister.

The parliamentary governments in States also are structured on the pattern of the Central government. The executive consists of the Governor and the Council of Ministers with the Chief Minister at the head. Whereas, the Governor functions as the Head of the State, the Chief Minister and the Council of Ministers act as the real executive.

8. The Council of Ministers is collectively responsible to Lok Sabha. It means that the responsibility of every Minister is the responsibility of the entire Council of Ministers. It is also responsible for Rajya Sabha. In fact, both the Houses have powers to control the Council of Ministers.

9. No government in the parliament can get hundred percent majority. The opposition plays an important role in checking the arbitrary use of authority by the political executive.

10. The civil servants advice and implement decisions of the government. Civil servants hold permanent appointments based on merit-based selection process. They ensure continuity of employment even when the government changes. The civil service also ensures efficiency in execution of duties and responsibilities.

The Constitutional experts have also called India 'a semi-federal' or ' quasi-federal' country/ system.

The Indian Constitution introduces a scheme of three-fold enumeration, namely, Federal, State and Concurrent.

- 1.List I includes all those subjects which are in the exclusive jurisdiction of Parliament.
2. List II consist of all the subjects which are under exclusive jurisdiction of the State Legislature, and

3. List III which is called the Concurrent List, consists of subjects on which both Parliament and the State legislatures can pass laws.

At present, there are 100 subjects in the Union list which includes subjects such as foreign affairs, defence, railway, postal services, banking, atomic energy, communication, currency etc, there are 61 subjects in the State list. The list includes subjects such as police, public order, roadways, health, agriculture, local government, drinking water facilities, sanitation etc. There are 52 subjects in the concurrent list. The list includes subjects such as education, forests, protection of wild animals and birds, electricity, labour welfare, criminal law and procedure, civil procedure, population control and family planning, drugs etc.

★ Article 249 empowers the parliament to legislate with respect to a matter in the State List in the national interest.

★ Under Article 250, the parliament becomes empowered to make laws on the matters related to state list when national emergency (under Article 352) is in operation.

★ Under Article 252, the parliament is empowered to legislate for two or more States by their consent.

Union Executive: The organ of a government that primarily looks after the function of implementation and administration is known the Executive. The Executive is the branch of Government accountability for the implementation of laws and policies legislated by the legislature

The Union Executive mainly comprises of President, Vice President, Prime Minister, Council of Ministers, Supreme Court of India. The president is the nominal executive whereas the Prime Minister is the real executive.

President of India

The President is the executive head of the Indian state. He is the Supreme Commander of the Armed Forces. He is the first citizen of India and occupies the first position All the executive actions are taken in his name. However, the 42nd Constitutional Amendment to the Constitution has made it obligatory on the part of the President to accept the advice of the Council of Ministers.

Qualifications:

1. He must be the citizen of India;
2. He must have completed the age of 35 years;
3. He must be qualified for election as a Member of the House of the People (Lok Sabha);
4. He must not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Further, the nomination of a candidate for election to the office of President must be subscribed by at least 50 electors (MP's) as proposers and 50 electors as seconders. Every candidate has to make a security deposit of Rs 15,000 in the RBI, which is liable to be forfeited in case the candidate fails to secure one-sixth of the votes polled.

There is no direct election for the president's elections. This **Electoral College** comprises the elected members of:

1. Lok Sabha and Rajya Sabha
2. Legislative Assemblies of the states (Legislative Councils have no role)
3. Legislative Assemblies of the Union Territories of Delhi and Puducherry

The following members are not involved or not allowed in electing the President of India, they are:

1. Nominated Members of Lok Sabha (2) and Rajya Sabha (12)
2. Nominated Members of State Legislative Assemblies
3. Members of Legislative Councils (Both elected and nominated) in bicameral legislatures
4. Nominated Members of union territories of Delhi and Puducherry

All these members are not allowed to participate in the president election to the post of president which will be conducted by the Electoral College because all these members of the respective houses are directly nominated by the president of India on the advice of prime minister.

Term of the President: 5 years from the date on which he enters upon his office. Even after the expiry of his term, he shall continue in office until his successor enters upon his office. He is also eligible for re-election. He may be removed from his office for violation of the Constitution by the process of impeachment.

Important Facts about President of India:

The President of India is the head of the State. He exercises only nominal powers. His functions are mainly ceremonial in nature like the Queen of Britain.

All the political institutions in India, function in the name of the President of India and the President supervises their functions to bring harmony in their works to achieve the objectives of the State.

In India, the President is elected, not appointed, (although not elected directly by the people).

Participation of Members of the state's Legislative Assemblies in the election of the president of India shows that the President of India represents the entire nation. All major policy decisions and orders of the government are issued in the President's name.

The President appoints all the major heads of the institutions of the government, i.e.,

- ★ *The appointment of the Chief Justice of India,*
- ★ *The Judges of the Supreme Court and the High Courts of the states,*
- ★ *The Governors of the states,*
- ★ *The Election Commissioners,*
- ★ *Ambassadors to other countries, etc.*
- ★ *The government of India makes all international treaties and agreements in the name of the President.*
- ★ *The President is the supreme commander of the defence forces of India.*

★ However, all these powers are exercised by the President only on the advice of the Council of Ministers headed by the Prime Minister.

★ The President can ask the Council of Ministers for reconsideration on any advice (asked to him by the Council of Ministers), but if the Council of Ministers recommend the same advice again, he is bound to act according to it.

A Bill passed by the Parliament becomes a law only after the President gives assent to it. The President can return a Bill back to the Parliament for reconsideration, but he has to sign it, if the Parliament passes the Bill again (with or without amendment).

The Powers and Functions of President of India

He addresses the Indian Parliament at the commencement of the first session after every general election

He appoints speaker, deputy speaker of Lok Sabha and chairman/deputy chairman of Rajya Sabha when the seats fall vacant (to know the difference between Lok Sabha and Rajya Sabha check the linked article.)

He nominates 12 members of the Rajya Sabha

He can nominate two members to the Lok Sabha from the Anglo-Indian Community,

The Judicial Powers of President:

1. Appointment of Chief Justice and Supreme Court/High Court Judges are on him.

2. He takes advises from Supreme Court however, those advise are not binding on him

3. He has pardoning power: Under article 72, he has been conferred with power to grant pardon against punishment for an offence against union law, punishment by a martial court or death sentence.

Note: Pardoning powers of the president includes the following types:

The Diplomatic Powers:

1. International Treaties and agreements that are approved by the Parliament are negotiated and concluded in his name

2. He is the representative of India in international forums and affairs

The Military Powers:

He is the commander of defence forces of India. He appoints:

1. chief of the Army ,2. chief of the Navy, and 3. chief of the Air Force

The Emergency Powers of President:

He deals with three types of emergencies given in the Indian Constitution:

The Veto Power: The President of India has three types of Veto powers (Article 111)they are:

★ The power of the President to withhold the assent to the bill is termed as his absolute veto.

★ The power of the President to return the bill to the Parliament with or without exercise his in relation to Money Bill.

★ The power of the President to not act upon the bill is termed as a pocket veto (other than Money Bill)

Ordinance Making Power: Article 123 deals with the ordinance making power of the President. Ordinances are like law but not enacted by the Parliament but rather promulgated by President of India when Lok Sabha and Rajya Sabha or either of those is not in session

Note: For an ordinance to exist, it should be approved by the Parliament within six weeks of it being introduced. Parliament is required to sit within 6 weeks from when Ordinance was introduced.

Violation of the Constitution is the only ground for Impeachment of President. Note: During the time of resolution passing, all the elected and nominated members of the houses shall be allowed to vote.

The Vice-President of India (Articles 63-73):

The office of the Vice President of India is the second highest constitutional office in India is also the ex-officio chairperson of the Rajya Sabha. An electoral college consisting of the members of both the Houses of Parliament- the Upper House i.e. Rajya Sabha and the Lower House i.e. Lok Sabha, elects the Vice President of India. The Vice-President of India is not a member of any House of Parliament or of a House of a Legislature of a State. The term of the office of Vice President is five years.

Eligibility: He or she must be a citizen of India, must be over 35 years of age, must not hold any office of profit, must be qualified for election as a Member of the Rajya Sabha or be Council of States.

However, there is a slight difference in election of the State Legislatures have no role to play in the election of the Vice President, unlike that of the President. The office of the Vice President is for a period of five years.

However, he or she can be re-elected as the Vice President for any number of times. Role of the Vice - President: the Vice President takes over the role of the President in the latter's absence. In other words, the role of the Vice President is to assist the President in being the nominal head of the Republic of India. The Vice President can only act as the President for a maximum period of 6 months from the day the vacancy was filled by him. Moreover, When the Vice President is acting as the President of the country, then he does not perform his functions as the chairman of Rajya Sabha. During this time, the Deputy Chairman of Rajya Sabha performs the functions of the Chairman of Rajya Sabha

Prime Minister of India: The P.M of India is the head of government of the Republic of India. Executive authority is vested in the PM and their chosen Council of Ministers, despite the president of India being the nominal head of the executive.

The P.M. is often the leader of the party or the coalition with a majority in the lower house of the Parliament of India, the Lok Sabha, which is the main legislative body in the Republic of India. The P.M and their cabinet are at all times responsible to the Lok Sabha.

The P.M. is appointed by the president of India; however the P.M has to enjoy the confidence of the majority of Lok Sabha members, who are directly elected every five years, lest the P.M shall resign. The P.M can be a member of the Lok Sabha or of the Rajya Sabha, the upper house of the parliament. He controls the selection and

dismissal of members of the Union Council of Ministers; and allocation of posts to members within the government.

The P.M shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

Like most parliamentary democracies, the president's duties are mostly ceremonial as long as The constitution and the rule of law is obeyed by the cabinet and the legislature. The P.M of India is the head of government and has the responsibility for executive power.

The president's constitutional duty is to preserve, protect and defend the Constitution

P.M. Eligibility: A P.M must be a citizen of India, MUST be a member of the Lok Sabha or the Rajya Sabha. If the person chosen as P.M is neither a member of the Lok Sabha nor the Rajya Sabha at the time of selection, they must become a member of either of the houses within six months.be above 25 years of age if they are a member of the Lok Sabha, or, above 30 years of age if they are a member of the Rajya Sabha. Not to hold any office of profit under the any governments.

Tenure: The P.M serves at the pleasure of the president', hence, a P.M may remain in office indefinitely, so long as the president has confidence in him/her. However, a P.M must have the confidence of Lok Sabha, the lower house of the Parliament of India. The term of a P.M can end before the end of a Lok Sabha's term, if a simple majority of its members no longer have confidence in him/her, this is called a vote-of-no- confidence.

Role and powers of the Prime Minister,

1. The leader of Country: The P.M of India is the Head of the Government of India.
2. Portfolio allocation: The P.M has the authority to assign portfolios to the Ministers.
3. Chairman of the Cabinet: The P.M is the chairman of the cabinet and presides the meetings of the Cabinet.
4. Official Representative of the country: P.M represents the country for high-level international meetings
5. The link between the President and the Cabinet: He communicates all decisions of the Cabinet to the President.
6. Chief Advisor: He acts as the chief advisor to the President

Executive powers: The P.M is usually always in charge/head of executive bodies like Cabinet Secretariat, NITI Aayog, Department of Atomic Energy, Department of Space, Nuclear Command Authority. The P.M represents the country in various delegations, high level meetings and international organisations that require the attendance of the highest government office, and also addresses to the nation on various issues of national or other importance.

Administrative and appointment powers: The PM recommends to the president-among others-names for the appointment of Chief Election Commissioner of India (CEC) and other Election Commissioners of India (ECS), Comptroller and Auditor General of India (C&AG), Chairperson and members of the Union Public Service

Commission (UPSC) Chief Information Commissioner of India (CIC) and Information Commissioners of India, Chairperson and members of the finance commission (FC) Attorney General of India (AG) and Solicitor General of India (SG)

As the chairperson of Appointments Committee of the Cabinet (ACC), the prime minister- on the non-binding advice of the Cabinet Secretary of India led-Senior Selection Board (SSB)-Decides the postings of top civil servants, such as, secretaries, additional secretaries and joint secretaries in the government of India. PM decides the assignments of top military personnel such as the Chief of the Army Staff, Chief of the Air Staff, Chief of the Naval Staff and commanders of operational and training commands. In addition, the ACC also decides the posting of Indian Police Service officers-the All India Service for policing, which staffs most of the higher level law enforcement positions at federal and state level-in the government of India.

Also, as the Minister of Personnel, Public Grievances and Pensions, the PM also exercises control over the Indian Administrative Service (IAS), the country's premier civil service, which staffs most of the senior civil service positions; the Public Enterprises Selection Board (PESB); and the Central Bureau of Investigation (CBI), (*except for the selection of its director, who is chosen by a committee of: (a) the prime minister, as chairperson; (b) the leader of the opposition in Lok Sabha; and (c) the chief justice*)

The Prime Minister's Office reported that the P.M does not receive a formal salary, only monthly allowances. P.M being the leader of the House and that of the majority party very greatly influences the working of the Parliament. No official business can come before the House without his explicit approval. All resolutions and bills can be moved only with his approval. It is the responsibility of the P.M to make all policy statements on the floor of the House

The Prime Minister's Office (PMO) acts as the principal workplace of the prime minister. The office is located at South Block, and is a 20-room complex, and has the Cabinet Secretariat, the Ministry of Defence and the Ministry of External Affairs adjacent to it. The office is headed by the Principal Secretary to the P.M of India, generally a former civil servant, mostly from the Indian Administrative Service (IAS) and rarely from the Indian Foreign Service (IFS).

The P.M presides over various funds.

1 The National Defence Fund (NDF) : was set up the Indian government in 1962, in the aftermath of 1962 Sino-Indian War. The P.M acts as chairperson of the fund' Donations to the fund are 100% tax-deductible under section 80G of the Income Tax Act, 1961.

2 The Prime Minister's National Relief Fund (PMNRF) : was set up by the first P.M of India-Jawaharlal Nehru in 1948, to assist displaced people from Pakistan. The fund, now, is primarily used to assist the families of those who are killed during natural disasters such as earthquakes, cyclones and flood and secondarily to reimburse medical expenses of people with chronic and deadly diseases. Donations to the PMNRF are 100% tax-deductible

3 P.M Cares Fund: In March 2020, after the rapid spread of the COVID - 19 virus from Wuhan to countries across the world, P.M Narendra Modi announced the

formation of a special fund to deal with any kind of emergency or distress situations like the COVID-19 pandemic.

Initially in FY 2019-20 the fund received Rs 3076.62 crores in just 5 days of its announcement. By FY 2020-21 the corpus of the PM Cares Fund was around Rs 10990 crore.

UNION COUNCIL OF MINISTERS & 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 P.M and consists of the heads of each of the executive government ministries.

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 ministries of the government.

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.

Cabinet: A cabinet is defined as the body of state officials. It is basically the body of advisers who serve several government departments. The officials or members of the branch are called Cabinet Ministers.

The role of the cabinet is to advise the President on several subjects related to the responsibilities he/ she has to perform. Historically, the cabinet was formed along with the presidency. The Cabinet functions under the Prime Minister.

Cabinets are nominated by the President of the nation. The officials under the cabinet are led by the Prime Minister, i.e., they are directly in contact with the PM. The Cabinet Ministers perform two main functions, i.e., first, they serve as administrative heads to several government departments, and second, they are advisors to the President of the country.

Council of Ministers: The council of ministers is defined as the supreme organ almost equal to the cabinet. But they do have some differences. The council is usually led by the President of the country. These ministers are the central ministers

that exercise powers in several government departments. These government officials are the decision-making bodies of the country.

The council of ministers also performs two major functions, i.e., they serve as the advisors to the President, and they are responsible for determining the government's legislative programs.

Key Differences between Cabinet & Council of Ministers

1. The Cabinet is the small body of the Council, comprising of the most experienced and influential members formed to discuss and decide policies of the government. Council of Ministers is the body that advises the President on various matters and is formed to assist the P.M in running Government.
2. In the Indian Constitution, the provisions relating to the council of ministers are described in detail, in the Article 74 and 75. In contrast, the term cabinet is mentioned only once in the article 352, and that was also inserted through the 44th amendment act, in the year 1978.
3. The cabinet consists of 15-18 members, which comprise of senior-most ministers. Conversely, the council of ministers is a bigger body, consisting of 40-60 members.
4. The cabinet itself is the sub-part of the council of ministers whereas the Prime Ministers distributes ranks and portfolios to the ministers and in this way, the Council is divided into various classes of ministers.
5. The cabinet meetings are frequently held, i.e. once in a week, to discuss and take decisions on various matters. As against this, the meetings of the council of ministers are rarely held.
6. The cabinet has several collective functions, while the council of ministers does not have collective functions.
7. Policies are made by the Cabinet and not by the council of ministers.
8. The cabinet takes decisions relating to policies and monitors its implementation by the council of ministers. On the contrary, the council of ministers implements the decisions of the cabinet.
9. The cabinet enforces collective responsibility of the council of ministers to the House of People. Unlike, the council of ministers who are responsible to the House of People, i.e. Lok Sabha.
10. As per the constitutions, all the powers are vested in the Council of Ministers, but the Cabinet actually exercises these powers.

Types of Ministers

- a. Cabinet Ministers- He participates in every meeting of the Cabinet
- b. Minister of State with independent charge- He is a Minister of State who does not work under a Cabinet Minister.

- c. Minister of State-He is a Minister who does not have independent charge of any Department and works under a Cabinet Minister.
- d. Deputy Minister-He is a Minister who works under a Cabinet Minister or a Minister of State with independent charge. His work is allotted by the Minister under whom he is working.

Module 4: Parliament of India

Parliament is the supreme legislative body of India. It is a bicameral legislature composed of the president of India and two houses: - Rajya Sabha (Council of States) and Lok Sabha (House of the People). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha.

The Constitution of India came into force on January 26, 1950. The first general elections under the new Constitution were held during the year 1951-52 and the first elected Parliament came into existence in April, 1952. The president in his role as head of the legislature has full powers to summon and prorogue either house of Parliament or to dissolve the Lok Sabha. The president can exercise these powers only upon the advice of the prime minister and his Union Council of Ministers.

Those elected or nominated (by the president) to either house of Parliament are referred to as members of Parliament (MPs). The members of parliament of the Lok Sabha are directly elected by the Indian public voting in single-member districts and the members of parliament of the Rajya Sabha are elected by the members of all state legislative assemblies by proportional representation.

The Parliament has a sanctioned strength of 543 in the Lok Sabha and 245 in the Rajya Sabha including 12 nominees from the expertise of different fields of literature, art, science, and social service. The Parliament meets at Sansad Bhavan in New Delhi.

The Indian Parliament is made up of the President, the Lok Sabha (Lower House), and the Rajya Sabha (Upper House). The House of People is known as the Lok Sabha, while the Council of States is known as the Rajya Sabha. **The names, 'Lok Sabha' & 'Rajya Sabha' were adopted in 1954 by the Indian Parliament.**

Loka Sabha: known as the House of People, where people who are qualified to vote can elect their representative by way of direct elections.

The tenure of the house is five years. But it can be dissolved earlier bypassing the no-confidence motion. Speaker heads the house. 25 years is the minimum age to become a member. The strength of the house is 552 members.

The functions of this house are all bills originate in Lok Sabha mostly and after passing through Rajya Sabha, they are returned for Lok Sabha approval. It plays a major role in legislation.

Rajya Sabha: is known as the Council of States, where the representatives indirectly elected by the elected representative of the Assemblies of States and Union Territory. It is a permanent body. Vice President of India as the Chairman of the house, 30 years is the minimum age to become a member.

The strength of the house is 250 members. Rajya Sabha has special powers to protect the states' rights against the Union.

All bills originate in Lok Sabha. Rajya Sabha has special powers mostly and after passing through to protect the states' rights Rajya Sabha, they are returned against the Union. for Lok Sabha approval. It plays a major role in legislation.

Sessions of Parliament: The period during which the House meets to conduct its business is called a session. The constitution empowers the president to summon each house at such intervals that there should not be more than a six-month gap between the two sessions. Hence the Parliament must meet at least twice a year. In India, the Parliament conducts three sessions each year:

Budget session: January/February to May

Monsoon session: July to August/September

Winter session: November to December

Lawmaking procedures: Legislative proposals are brought before either house of the Parliament in the form of a bill. Money bills must originate in the Lok Sabha. The Council of States can only make recommendations over the bills to the House, within a period of fourteen days.

Parliamentary committees: are formed to deliberate specific matters at length. The public in directly or indirectly associated and studies are conducted to help committees arrive at the conclusions. Parliamentary committees are of two kinds:

1. Ad hoc committees and
2. Standing committees.

Standing committees are permanent committees constituted from time to time in pursuance of the provisions of an act of Parliament or rules of procedure and conduct of business in Parliament. The work of these committees is of a continuing nature. Ad hoc committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report.

Functions of Parliament

1 Legislative Functions: The Parliament legislates on all matters mentioned in the Union List and the Concurrent List. The Parliament can also pass laws on items in the State List If Emergency is in operation, or any state is placed under President's Rule (Article 356),

According to Article 252, if the legislatures of two or more states pass a resolution to the effect that it is desirable to have a parliamentary law on any item listed in the State List, the Parliament can make laws for those states.

2, Executive Functions: By a vote of no-confidence, the Parliament can remove the Cabinet (executive) out of power. It can reject a budget proposal or any other bill brought by the Cabinet. A motion of no-confidence is passed to remove a government from office.

Any lapses on the part of the government can be exposed in the Parliament.

Adjournment Motion: Allowed only in the Lok Sabha, the chief objective of the adjournment motion is to draw the attention of the Parliament to any recent issue of urgent public interest. It is considered an extraordinary tool in Parliament as the normal business is affected.

The Parliament appoints a Committee on Ministerial Assurances that sees whether the promises made by the ministers to the Parliament are fulfilled or not.

Censure Motion: A censure motion is moved by the opposition party members in the House to strongly disapprove any policy of the government. It can be moved only in the Lok Sabha. Immediately after a censure motion is passed, the government has to seek the confidence of the House. Unlike in the case of the no-confidence motion, the Council of Ministers need not resign if the censure motion is passed.

Cut Motion: A cut motion is used to oppose any demand in the financial bill brought by the government.

3. Financial Functions: Parliament is the ultimate authority when it comes to finances. The Executive cannot spend a single pie without parliamentary approval.

The Union Budget prepared by the Cabinet is submitted for approval by the Parliament. All proposals to impose taxes should also be approved by the Parliament.

There are two standing committees (Public Accounts Committee and Estimates Committee) of the Parliament to keep a check on how the executive spends the money granted to it by the legislature.

4. Amending Powers: The Parliament has the power to amend the Constitution of India. Both Houses of the Parliament have equal powers as tending the Constitution is concerned. Amendments will have to be passed in both the Lok Sabha and the Rajya Sabha for them to be effective.

5. Electoral Functions: The Parliament takes part in the election of the President and the Vice President. The electoral college that elects the President comprises of, among others, the elected members of both Houses. The President can be removed by a resolution passed by the Rajya Sabha agreed to by the Lok Sabha.

6. Judicial Functions: In case of breach of privilege by members of the House, the Parliament has punitive powers to punish them. A breach of privilege is when there is an infringement of any of the privileges enjoyed by the MPs.

The power of the Parliament to punish its members is also generally not subject to judicial review. Other judicial functions of the Parliament include the power to impeach the President, the Vice President, the judges of the Supreme Court, High Courts, Auditor-General, etc.

Other powers/functions of the Parliament: Issues of national and international importance are discussed in the Parliament. The opposition plays an important role in this regard and ensures that the country is aware of alternate viewpoints.

A Parliament is sometimes talked of as a 'nation in miniature'.

The Parliament has the power to alter, decrease or increase the boundaries of states/UTs.

Composition of Lok Sabha v/s Composition of Rajya Sabha

Composition of Lok Sabha Maximum Strength 552 Current Strength -545		Composition of Rajya Sabha Maximum Strength 250 Current Strength -245	
530 represent the States	530 represent States	238 elected indirectly and are representatives of States and Union Territories	233 elected indirectly and are representatives of States and Union Territories
20 representatives of Union Territories	13 represent Union Territories	12 are nominated by the President	12 are nominated by the President
2 are nominated by the President from Anglo-Indian Community	2 are nominated by the President from Anglo-Indian Community		

Lok Sabha Members are directly elected by the people from the territorial constituencies in the states. Election Principle used Universal Adult Franchise

Eligibility to Vote: Any Indian Citizen of/above 18 years of age

Rajya Sabha: Members are elected by the elected members of state legislative assemblies. Election Principle used - Proportional Representation by means of Single Transferable Vote .Allotment of Seats On the basis of population

Note: Number of representatives varies from state to state

Types of Bills In India: The Indian Parliament legislates with the use of governmental acts. Only after the draft bills are passed by the Parliament, these acts are introduced into the Indian Constitution There are various types of bills that are introduced in the parliament to enact law

A bill is said to be a draft statute that is presented in either houses of the Parliament only after being passed by both the houses of the Parliament and it has received president's assent. These are legislative proposals that are introduced in the forms of bills are of two kinds:

1. Public bills (or government bills), 2. Private bills (also called private members' bills)
The bills introduced in the Parliament can also be classified into four categories as mentioned below:

1. **Ordinary bills** these bills are concerned with any matter other than financial subjects. This bill is introduced by Minister or a Private member.
2. **Money bills** - These bills are concerned with financial matters like taxation, public expenditure, etc., This bill is presented only in Lok Sabha. It is introduced only by the Minister. Money bill is introduced only after President's recommendation. This bill

cannot be amended or rejected by Rajya Sabha. It can be detained by Rajya Sabha for the maximum period of 14 days.

3. **Financial bills** these bills are also concerned with financial matters (but are different from money bills).

4. **Constitutional amendment bills** - These bills are concerned with the amendment of the provisions of the Constitution.

5 **Ordinance Replacing Bill:** This bill is brought before Parliament to replace an ordinance with or without modifications promulgated by President under Article 123 of the Indian Constitution.

Important Parliamentary Terms/Terminologies of INDIA:

The major parliamentary terms used in Indian parliament are as follows:

(i) **Quorum:** It is the minimum number of members whose presence is essential to transact the business of the House.

(ii) **Question-Hour:** The day's business usually starts with the question-hour during which questions are asked by the members and the answers are provided by the concerned Minister.

(iii) **Zero Hour:** This period follows the question hour and generally begins at noon. Usually the time is used by members to raise various issues for discussion.

(iv) **Starred Question:** It is one for which an oral answer is required to be given by the Minister on the floor of the House. Supplementary questions may be asked based on the Minister's reply. The Speaker decides if a question should be answered orally or otherwise. One member can ask only one starred question in a day. to

(v) **Un-starred Question:** It is one for which the Minister lays on the table a written answer. A 10- day notice has to be given to ask such questions and no supplementary questions can be asked with regard to such questions.

(vi) **Short Notice Questions:** It can be asked by members on matters of public importance of an urgent nature. It is for the Speaker to decide whether the matter is of urgent nature or not. The member has also to state reasons for asking the questions while serving notice.

(vii) **Point of Order:** A member may raise a point of order if the proceedings of the House do not follow the normal rules. The Presiding officer decides whether the point of order raised by the members should be allowed.

(viii) **Vote on Account:** AS there is usually a gap between the presentation of the budget and its approval, the vote on account enables the government to draw some amount from the Consolidated

(ix) **Guillotine:** Fund of India to meet the expenses in the intervening period. The act of putting all the demands for grant to vote, without discussion on the last day earmarked for the discussion of the budget is called guillotine.

(x) **Lame-duck Session**: This session is held when a new Parliament has been elected but the old Parliament meets for the last time before it is dissolved. The lame-ducks are the members of the Parliament who have not got re-elected.

(1) **"Act"**--A Bill passed by both Houses of Parliament and assented to by the President.

(2) **"Ad hoc Committee"**- A Committee constituted by the House or by the Chairman or by the presiding officers of both the Houses jointly to consider and report on specific matter and becomes functus officio as soon as the task is completed.

(3) **"Adjournment of Debate"**--Adjournment on a motion adopted by the House, of the debate on a Motion/Resolution/Bill on which the House is then engaged until a future day or sine die as specified in the motion.

(4) **"Adjournment of the sitting of the House"**- Termination of the sitting of the House which meets again at the time appointed for the next sitting.

(5) **"Adjournment sine die"**-Termination of a sitting of the House without any definite date being fixed for the next sitting.

(6) **"Appropriation Bill"**- A Money Bill passed annually (or at various times of the year) providing for the withdrawal or appropriation from and out of the Consolidated Fund of India, of moneys, voted by Lok Sabha and moneys charged on the Consolidated Fund for the services of a financial year or a part of a financial year.

(7) **"Ballot"**- A process to determine inter se priority of more than one notice through a draw of lot.

(8) **"Bill"**-The draft of a legislative proposal put in the proper form which, when passed by both Houses of Parliament and assented to by the President becomes an Act.

(9) **"Budget"**-Annual financial statement of the estimated receipts and expenditure of the Government of India in respect of a financial year. The Budget is laid in Rajya Sabha in two parts viz., the Railway Budget and the General Budget.

(10) **"Bulletin"**-Bulletin means the Bulletin of Rajya Sabha. It is published in two parts. Part I contains a brief record of the proceedings of the House at each of its sittings; and Part II contains information on any matter relating to or connected with the business of the House or Committees or other matter which in the opinion of the Chairman may be included therein.

(11) **"Calendar of Sittings"**- A calendar showing the provisional days on which Rajya Sabha is to sit and the nature of business to be transacted by it on those days.

(12) **"Calling Attention"** - A procedure whereby a Member calls the attention of a Minister to a matter of urgent public importance, the Minister makes a brief statement thereon and thereafter the Members seek clarifications.

- (13) "**Casting Vote**"-The vote cast by the Chairman, or a Member acting as such in the House and by the Chairman or a Member acting as such in a Committee, in the case of an equality of votes on a matter.
- (14) "**Crossing the floor**"--Passing between the member addressing the House and the Chair which is considered breach of Parliamentary etiquette.
- (15) "**Demand for Grants**"-Earmarking of budgetary allocation for meeting the plan and non- plan expenditure of a Ministry/Department.
- (16) "**Division**"-The mode of arriving at a decision on a proposed measure or question before the House by recording votes for or against it.
- (17) "**Draw of lot**" - A method applied to determine the relative precedence of private members 'Bills and Resolutions, notices of questions, half-an-hour discussions or any other notice given by more than one member simultaneously for being taken up on the same day.
- (18) "**Expunction**"-Deletion of words, phrases or expressions from the proceedings or records of Rajya Sabha by an order of the Chairman for being defamatory or indecent or unparliamentarily or undignified.
- (19) "**Finance Bill**"-A Bill ordinarily introduced every year to give effect to the financial (34) proposals of the Government of India for the following financial year and includes a Bill to give effect to supplementary financial proposals for any period.
- (20) "**Financial Business**" The financial business of the House consists of the laying of the Railway and General Budgets and statements of supplementary Demands for Grants on of the Table after they are presented to the Lok Sabha, general discussion on the General and Railway Budgets, consideration and return of connected Appropriate Bills and Finance Bills, laying of Budgets, etc. of States which are under the President's Rule.
- (21) "**Gazette**"-The Gazette of India.
- (22) "**Half-an-Hour Discussion**"-A Member with the permission of the Chairman may raise a discussion on a matter of sufficient public importance which has been the subject of a recent oral or written question and the answer to which needs elucidation on a matter of fact.
- (23) "**Leader of the Council**"-The Prime Minister, if he is a member of the Council or a Minister who is a member of the Council and is nominated by the Prime Minister to function as the Leader of the Council.
- (24) "**Leader of the Opposition**"-A Member of the House, who is, for the time being, the leader in that House of the Party in opposition to the Government having the greatest numerical strength and recognised as such by the Chairman.
- (25) "**Leave of absence**"-A member wishing to obtain permission of the House for remaining absent from its sittings is required to make an application stating the reasons and the period for which he may be permitted to be absent from the sittings of the House.

(26) "**Legislative Business**" Introduction, consideration and passing of a bill, piloted by a Minister or a Private Member, in the House.

(27) "**List of Business**"- A list of items of business scheduled to be taken up in Rajya Sabha on a particular day of the sittings in the order in which they stand on it.

(28) "**Lobby**"-The covered corridor immediately adjoining the Chamber and coterminous with it.

(29) "**Maiden Speech**"-The first speech of a member after his election/nomination to the Rajya Sabha in the House.

(30) "**Matters raised with permission**"- Immediately after the Question Hour and laying of papers, a Member may raise an issue of urgent public importance with the prior permission of the Chairman.

(31) "**Member in charge of the Bill**"-The Minister/Private Member who has introduced the government/Private Members' Bill.

(32) "**Memorandum of business**" - It is meant for the use of the Chair to help him while calling the items listed in the Agenda paper of the day.

(33) "**Message**"-A communication from the President to a House or Houses of Parliament under articles 86(2) and 111 of the Constitution and a communication sent from one House of Parliament to the other House.

(34) "**Motion**"-A formal proposal made to the House by a Minister or a member that the House (3) do something, order something to be done or express an opinion with regard to some matter, and is so phrased that, if adopted, it will purport to express the judgment or will of the House.

(35) "**Motion of Thanks**"-A formal motion moved in the House, expressing its gratitude to the (3) President for the Address delivered by him/her under article 87(1) of the Constitution to both Houses of Parliament assembled together.

(36) "**Naming a Member**"-The drawing of attention of the House by the Chairman to the conduct of a member who disregards the authority of the Chair or abuses the Rules of the House by persistently and willfully obstructing the business thereof, with a view to action being taken to suspend him from the service of the House for a period not exceeding the remainder of the session.

(37) "**Ordinance**"-A law made by the President in exercise of the powers vested in him under article 123 of the Constitution.

(38) "**Panel of Vice-Chairmen**"- A panel of six members of Rajya Sabha nominated by the Chairman, any one of whom may preside over the House in the absence of the Chairman and the Deputy Chairman when so requested by the Chairman, or in his absence, by the Deputy Chairman.

(39) "**Papers laid on the Table**"-The papers or documents laid on the Table of the House for purpose of bringing them on the record of the House by a Minister or by a private member or by the Secretary-General with the permission of the Chairman in pursuance of the provisions of the Constitution or the Rules of Procedure of Rajya Sabha or an Act of Parliament and the Rules and Regulations made thereunder.

(40) "**Personal explanation**" - A Member or a Minister against whom comments or criticism of a personal nature are made on the floor of the House is entitled to make, with the consent of the Chairman, personal explanation in his defence.

(41) "**Point of Order**" A point relating to the interpretation or enforcement of the Rules of Procedure or such articles of the Constitution as regulate the business of the House raised in the House and submitted for the decision of the Chair.

(42) "**Precincts of Rajya Sabha**"-This includes the Chamber, the Lobbies, the Galleries and such other places as the Chairman may from time to time specify.

(43) "**Private Members' Resolution**"- A resolution, on a matter of general public interest, a Member, other than a Minister, on a day allotted for Private Members Resolutions which is in the form of a declaration of opinion by the House or in such other form as the Chairman may consider appropriate.

(44) "**Prorogation**"-The termination of a session of Rajya Sabha by an order made by the President under article 85(2)(a) of the Constitution.

(45) "**Putting the Question**"-When debate on a question is closed, the Chairman, rising from the Chair, states or reads the question to the House, beginning with "The question is, that".

(46) "**Question Chart**"-A chart circulated to members, along with the Summons for a Session, which indicates the dates for answering questions and the last date for receiving notices of questions pertaining to various Ministries/ Departments.

(47) "**Question Hour**"-The first hour of a sitting of the House allotted for asking and answering of questions. (48) "**Question of Privilege**"-A question involving a breach of privilege either of a member or of the House or of a Committee thereof or a contempt of the House

(49) "**Quorum**"-The minimum number of members required to be present at a sitting of the House or a Committee for valid transaction of its business, which is one-tenth of the total number of members of the House, as provided under article 100(3) of the Constitution.

(50) "**Rajya Sabha debate**" A verbatim record of everything said in the House is reported by the official Reporter for each of the sittings of the Rajya Sabha, except certain words, phrases and expression, if any, ordered by the Chair to be expunged or ordered by the Chairman not to be recorded, when Members speak without his permissions.

(51) "**Roll of Members**"-A register in which newly elected members sign, after making and subscribing the oath or affirmation and before taking their seats for the first time in the House.

(52) "**Session**"-A session of Rajya Sabha comprises the period commencing from the date and time mentioned in the order of the President summoning Rajya Sabha and ending with the day on which the President prorogues Rajya Sabha.

(53) "**Short Duration Discussion**"-For raising a discussion on a matter of urgent public importance for which a notice has to be given by a Member supported by two other Members specifying clearly and precisely the matter to be raised.

(54) "Short Notice Question"-A question relating to a matter of urgent public importance asked for oral answer by a Member with shorter notice than fifteen clear days by giving the reasons for asking the question with short notice.

(55) "**Sitting of the House**"-A sitting of the House is duly constituted when it is presided over by the Chairman or a member competent to preside over a sitting of the House under the Constitution or the Rules of Procedure of Rajya Sabha. (56) "Special Mention"-A procedure available to a Member who wishes to mention a matter of public importance in the House by reading out from the text not exceeding 250 words.

(57) "**Standing Committee**"- Committee constituted by election by the House or nomination by the Chairman every year or from time to time which are permanent in nature. (58) "Starred Question"-A question to which a member wishes to have an oral answer on the floor of the House and which is distinguished by an asterisk.

(59) "**Statutory Resolution**"-A resolution in pursuance of a provision in the Constitution or an Act of Parliament.

(60) "**Subordinate Legislation**"--Rules, regulations, orders, schemes, bye-laws, etc. having the force of law, framed by the Executive or other subordinate authority in pursuance of the power conferred on it by the Constitution or delegated to it by an Act of Parliament.

(61) "**Summons**"-An official communication issued by the Secretary-General of Rajya Sabha under the orders of the President to the Members of Rajya Sabha informing them of the

(62) **place, date and time of the commencement** of a session of Rajya Sabha. "Supplementary question" - A Question asked by any member when called by the Chairman for the purpose of further elucidating any matter of fact regarding which an answer has been given during the question hour. 001.1

(63) "**Table of the House**"--The Table just in front of the desk of the SecretaryGeneral below the Chairman's Chair, on which papers which are required to be laid on the Table of the House, are deemed to be placed.

(64) "**Unstarred Question**"--A question which is not called for oral answer in the House and the written answer to such a question is deemed to have been laid on the Table.

(65) "**Valedictory remarks**"-It is customary in every Session for the Chair to make the Valedictory remarks at the end of Session thanking Members and leaders of parties and groups for their cooperation in the conduct of business of the House.

(66) "**Whips**" - Members drawn from the party in power and the parties/groups in opposition to perform specified functions and form vital links in the internal organization of a party inside Parliament.

JUDICIAL SYSTEM OF INDIA :

Supreme Court of India and other Courts, Judicial Reviews and Judicial Activism

Supreme Court of India: is the country's highest judicial court. It is the final court of appeal in the country. India has one of the oldest legal systems in the world. Its law and jurisprudence stretches back into the centuries, forming a living tradition which has grown and evolved with the lives of its diverse people. India's commitment to law is created in the Constitution an independent judiciary, guaranteed Fundamental Rights and Directive Principles of State Policy

Chapter IV under Part V of the constitution (Union) deals with the The Union Judiciary. (A124-147). Unlike the other two branches, executive and legislature, in India Judiciary is integrated. This means that even though there may be High Courts in states, the law declared by the Supreme Court shall be binding on all courts within the territory of India (Article 141).

Supreme Court History: The Federal Court of India was created as per the Government of India Act 1935. This court settled disputes between provinces and federal states and heard appeals against judgements of the high courts.

After independence, the Federal Court and the Judicial Committee of the Privy Council were replaced by the Supreme Court of India, which came into being in **January 1950**. The Constitution envisaged a Supreme Court with one Chief Justice and 7 puisne Judges.

The number of SC judges was increased by the Parliament and currently, there are 34 judges including the Chief Justice of India (CJI).

Supreme Court of India - Functions

1. It takes up appeals against the verdicts of the High Courts, other courts and tribunals.
2. It settles disputes between various government authorities, between state governments, and between the centre and any state government.
3. It also hears matters which the President refers to it, in its advisory role.
4. The SC can also take up cases suo moto (on its own).

The law that SC declares is binding on all the courts in India and on the Union as well as the state governments.

Jurisdiction: 1. Original-2. Advisory-.3. Appellate

Supreme Court Composition: Including the CJI, there are 34 judges in the Supreme Court. The judges sit in benches

- a. Single judge bench
- b. Divisional Benches : of 3 or more (called a Division Bench)
- c. Constitutional Bench: benches of 5 or more (called a Constitutional Bench) when there are matters of fundamental questions of the law is to be decided.
- d. Long benches : 7 or 9 judges
- e. Special Benches :

The Supreme Court of India has powers to consult the President to regulate the practice and procedure of the Court.

The seat of Supreme Court: As per the Constitution of India, Delhi is declared as the seat of the Supreme Court of India. However, the Chief Justice of India has the power to assign another place (s) as the seat of the Supreme Court. This is only an optional provision and not mandatory.

SC Judge Eligibility: As per Article 124, an Indian citizen who is below 65 years of age is eligible to be recommended for appointment as a judge of the SC if:

- 1. he/she has been a judge of one or more High Courts, for at least 5 years, or
- 2. he/she has been an advocate in one or more High Courts for at least 10 years, or
- 3. he/she is in the opinion of the President, a distinguished jurist.

Independence of Judiciary: The Constitution has many provisions to ensure the judiciary's independence.

1. **Security of tenure:** The judges of the SC are given security of tenure. Once appointed, they will retain their office until the age of 65 years. They can be removed only by a presidential order on grounds of proven misbehaviour and/or incapacity. This requires a Special Majority according to Article 368. **Salaries and allowances:** The judges of the SC enjoy good salaries and allowances and these cannot be decreased except in the case of a financial emergency. **The expenses of the High Court are charged on the Consolidated Fund of the State, which is not subject to vote in the state legislature.**

- 2. **Powers and Jurisdiction:** The SC's powers and jurisdiction can only be added by the Parliament and not be curtailed.
- 3. The conduct of any judge of the Supreme Court in the discharge of his/her duties cannot be discussed in the legislature.
- 4. The SC has the power to punish any person for its contempt, as per Article 129.
- 5. **Separation of the Judiciary from the Executive:** A Directive Principle of State Policy says that the state shall take steps to separate the judiciary from the executive in the public services of the state. According to Article 50, there shall be a separate judicial service free from executive control.

Original jurisdiction of the Supreme Court 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.

Attorney General: The Attorney General for India is appointed by the President of India under Article 76 of the Constitution and holds office during the pleasure of the President. He must be a person qualified to be appointed as a Judge of the Supreme Court. It is the duty of the Attorney General for India to give advice to the Government of India upon such legal matters and to perform such other duties of legal character as may be referred or assigned to him by the President. In the performance of his duties, he has the right of audience in all Courts in India as well as the right to take part in the proceedings of Parliament without the right to vote. In discharge of his functions, the Attorney General is assisted by a Solicitor General and four Additional Solicitors General.

Writs In Indian Constitution

The supreme court, and High courts have power to issue writs in the nature of habeas corpus, quo warranto, mandamus, certiorari, prohibition etc., under Arts. 32 and 226 respectively. These writs have been borrowed in India from England where they had a long chequered history of development and consequently have gathered a number of technicalities. Power to issue writs is primarily a provision made to make available the Right to Constitutional Remedies to every citizen. The right to constitutional remedies as we know is a guarantor of all other fundamental rights available to the people of India. In addition to the above, the constitution also provides for the parliament to confer on the supreme court power to issue writs, for the purpose other than those mentioned above. Similarly High courts in India are also empowered to issue writs for the enforcement of any of the rights conferred by Part III and for any other purpose

Types of Writs in India

The Supreme Court of India is the defender of the fundamental rights of the citizens. For that, it has original and wide powers. It issues five kinds of writs for enforcing the fundamental rights of the citizens. The five types of writs are:

1. Habeas Corpus
2. Mandamus
3. Prohibition
4. Certiorari
5. Quo-Warranto

1 Habeas Corpus: The Latin meaning of the word 'Habeas Corpus' is 'To have the body of. This writ is used to enforce the fundamental right of individual liberty against unlawful detention. Through Habeas Corpus, Supreme Court/High Court orders one person who has arrested another person to bring the body of the latter before the court.

2 Mandamus: The literal meaning of this writ is 'We command. This writ is used by the court to order the public official who has failed to perform his duty or refused to do his duty, to resume his work. Besides public officials, Mandamus can be issued against any public body, a corporation, an inferior court, a tribunal, or government for the same purpose.

3 Prohibition: The literal meaning of 'Prohibition' is 'To forbid.' A court that is higher in position issues a Prohibition writ against a court that is lower in position to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess. It directs inactivity.

4 Certiorari: The literal meaning of the writ of 'Certiorari' is 'To be certified' or 'To be informed. This writ is issued by a court higher in authority to a lower court or tribunal ordering them either to transfer a case pending with them to itself or quash their order in a case. It is issued on the grounds of an excess of jurisdiction or lack of jurisdiction or error of law. It not only prevents but also cures for the mistakes in the judiciary.

5 Quo-Warranto: The literal meaning of the writ of "Quo-Warranto" is 'By what authority or warrant. Supreme Court or High Court issue this writ to prevent illegal usurpation of a public office by a person. Through this writ, the court enquires into the legality of a claim of a person to a public office

It is interesting to note that writs were adopted from the British law, in which they were known as "Prerogative Writs".

THE HIGH COURTS: The High Courts of India are the highest courts of appellate jurisdiction in each state and union territory of India. The work of highest courts primarily consists of appeals from lower courts and writ petitions in terms of Articles 226 and 227 of the constitution. Writ jurisdiction is also an original jurisdiction of a high court.

Each state is divided into judicial districts presided over by

1. District 2. Sessions judge.

He is known as district judge when he presides over a civil case, and session's judge when he presides over a criminal case. He is the highest judicial authority below a high court judge. Below him, there are courts of civil jurisdiction, known by different names in different states. Under Article 141 of the constitution, all courts in India - including high courts - area bounded by the judgments and orders of the Supreme Court of India by precedence.

Judges in a high court are appointed by the president of India in consultation with the chief justice of India and the governor of the state under Article 217 of the Constitution but through subsequent judicial interpretations, the primacy of the appointment process is on the hands of the Judicial Collegium.

High courts are headed by a chief justice. The chief justices rank fourteenth (within their respective states) and seventeenth (outside their respective states) on the Indian order of precedence. The number of judges in a court is decided by dividing the average institution of main cases during the last five years by the national average, or the average rate of disposal of main cases per judge per year in that high court, whichever is higher.

Composition: Every High Court comprises of a Chief Justice and other judges appointed by President. There is no fixed minimum number of judges for the High Courts. It varies from Court to Court and from State to State.

Qualifications and Tenure: person shall not be fit for appointment as a Judge of the High Court. He must be a citizen of India; He should have held a judicial office in the territory of India for ten years. He has been for at least 10 years an advocate of one or two or more High Court.

Appointment of Judges: Every judge is appointed by the president in consultation with the Chief Justice of SC and governor of the concerned state.

In case of appointment for other high court judges, it is also done by the president in consultation with the Chief Justice of SC, Chief Justice of HC and governor of the state.

Removal: A judge of the high court can be removed by the president on the grounds of proved misbehaviour or incapacity.

Approval of the 2/3rd majority of both the houses are also needed to go ahead with the impeachment of high court judges.

Retirement: at the age of 62 years.

Transfer of high court Judges: President can transfer high court judges from one high court to another only if It is done in consultation with the Chief Justice of the Supreme Court. In consultation with 4 senior most Supreme Court judgesIf approved by the Chief Justice of high Court. The high court judge, who is transferred to another high court, is entitled to get compensatory allowance in addition to his salary.

Powers and Functions

Jurisdiction: Jurisdiction is the power that a court of law exercises to carry out judgements and enforce laws.

1. Original jurisdiction
2. Appellate jurisdiction
3. Advisory jurisdiction
4. Judicial review

1. Original jurisdiction processes the power to control those cases that cannot be advanced in other courts other than high court.

2 The original jurisdiction of the high court extends to the matters of admiralty, Will, matrimonial and contempt of Court cases.

The High Courts of Calcutta, Bombay and Madras have original jurisdiction in criminal and civil cases arising within these cities.

An exclusive right enjoyed by these High Courts is that they are entitled to hear civil cases which involve property worth over Rs.20000. Regarding Fundamental Rights: They are empowered to issue writs in order to enforce fundamental rights.

With respect to other cases: All High Courts have original jurisdiction in cases that are related to will, divorce, contempt of court and admiralty.

Election petitions can be heard by the High Courts.

Appellate jurisdiction

1. This processes the power to control the cases of appeal against the judgement provided by any district courts or any subordinate courts in the country.
2. The cases include: civil cases and the criminal cases

Administrative Power's:

1. It superintends and controls all the subordinate courts.
2. It can ask for details of proceedings from subordinate courts.
3. It issues rules regarding the working of the subordinate courts.
4. It can transfer any case from one court to another and can also transfer the case to itself and decide the same.
5. It can enquire into the records or other connected documents of any subordinate court.
6. It can appoint its administration staff and determine their salaries and allowances, and conditions of service.

Advisory Jurisdiction: Any government department, legislature or governor may mention and send a specific case for consideration to the high court if it has certain special arrangements; this power of the high court to control such cases is referred to as advisory jurisdiction.

Judicial Review:

1. High court is authorised to review any judgment or order developed by any subordinate court, with a perception of reducing any kind of mistake or error that can crept in the judgement; it is referred as Judicial Review.
2. This is done in cases of errors of law, wrong judgment and fragrant error in procedure.

Subordinate Courts are 1. Civil court,2. Criminal court,3. Court of revenue

As a Court of Record High Courts are also Courts of Record (like the Supreme Court).The records of the judgements of the High Courts can be used by subordinate courts for deciding cases.

All High Courts have the power to punish all cases of contempt by any person or institution.

Important Terms related to High Courts in India:

Tribunal : A type of Court / Authority to decide who is right in a particular type of dispute.

Permanent Bench - A permanent bench comprises of one or more High Court judges who sit yearlong at a particular location

Judicial Review and Judicial Activism

Judicial review is defined as the power of the Supreme Court and High Courts to examine the constitutionality of the laws / actions of the Government. Its own decisions /actions when they are challenged for violating constitutional principles. Our constitution adopted this in line with American Constitution.

How to review?

- a. *Suo Moto* cases
- b. Public Interest Litigation (PIL),
why to reviews?

- a. to ensure and protect Fundamental Rights
- b. To maintain the rule of law
- c. To prove Judicial supremacy.

The limitations of these powers are:

It is only permissible to the extent of finding whether the procedure in reaching the decision has been correctly followed but not the decision itself

It is delegated to superior courts only, i.e. Supreme Court and High Courts

Cannot interfere in policy matters and political questions unless absolutely necessary

Can interpret and invalidate a law but it cannot itself make laws

Judicial Activism: Judicial activism is a concept that originated in the US in 1947. It has been seen in India since the Emergency days. The judiciary plays an important role in upholding and promoting the rights of citizens in a country. The active role of the judiciary in upholding the rights of citizens and preserving the constitutional and legal system of the country is known as judicial activism. This entails, sometimes overstepping into the territories of the executive. Judicial activism is seen as a success in liberalizing access to justice and giving relief to disadvantaged groups, the concept of Public Interest Litigation (PIL) is always talked of when judicial activism is discussed.

Judicial Activism Methods: There are various methods of judicial activism that are followed in India. They are:

1. Judicial review (power of the judiciary to interpret the constitution and to declare any such law or order of the legislature and executive void, if it finds them in conflict with the Constitution)
3. PIL (The person filing the petition must not have any personal interest in the litigation, this petition is accepted by the court only if there is an interest of large public involved; the aggrieved party does not file the petition).
3. Constitutional interpretation
4. Access of international statute for ensuring constitutional rights
5. Supervisory power of the higher courts on the lower courts

Significance of Judicial Activism: It is an effective tool for upholding citizens' rights and implementing constitutional principles when the executive and legislature fails to do so. Citizens have the judiciary as the last hope for protecting their rights when all other doors are closed. The Indian judiciary has been considered as the guardian and protector of the Indian Constitution.

Article 13 read with Articles 32 and 226 of the Constitution provides the power of judicial review to the higher judiciary to declare any executive, legislative or administrative action void if it is in contravention with the Constitution.

According to experts, the shift from locus standi to public interest litigation made the judicial process more participatory and democratic.

Judicial activism counters the opinion that the judiciary is a mere spectator.

Judicial Activism Examples

It all started when the Allahabad High Court rejected the candidature of Indira Gandhi in 1973.

Golaknath case: The questions, in this case, were whether the amendment is a law, and whether Fundamental Rights can be amended or not. **Kesavananda Bharati case:** This judgement defined the basic structure of the Constitution. The SC held that although no part of the Constitution, including Fundamental Rights, was beyond the Parliament's amending power, the "basic structure of the Constitution could not be abrogated even by a constitutional amendment." This is the basis in Indian law in which the judiciary can strike down an amendment passed by Parliament that is in conflict with the basic structure of the Constitution.

In the 2G scam, the SC cancelled 122 telecom licenses and spectrum allocated to 8 telecom companies on the grounds that the process of allocation was flawed.

Judicial Activism in simple words means when judges interrupt their own personal feelings into a conviction or sentence, instead of upholding the existing laws. For some reason, every judicial case has a base of activism within it, so it is imperative to weigh the pros and cons to determine the aptness of the course of action being carried out.

MODULE 5

State Executive, Governor, CM, State Cabinet and Legislature

The State executive is responsible for managing the administration of a state. The State Executive comprises the Governor as the nominal head, Chief Minister as the real head heading the Council of Ministers and the Advocate General of the state.

The state executive has to work in consonance with the Union Government at all times. The Governor ensures this cooperation between the Centre and State by acting as a link between the two. An introduction of the state executive involves understanding the Governor's position, role, and powers.

The government is based on the separation of powers and consists of three organs such as the Legislature, Executive and the Judiciary.

The state executive is envisaged with the role of enforcing the laws made by the legislature and looking after the governance in the state.

The State Executive is made up of the following: Governor, Chief Minister, Council of Ministers, Advocate General of the State, on-Political Permanent Executive - Civil Servants

Governor of the State is a titular head or constitutional head and at the same time, he is the agent of the centre as the union government nominates Governor in each state. Governor is a nominal executive head of the state. He forms an important part of the state executive where he acts as the chief executive head. Central Government nominates the governor for each state.

The governor is appointed by the President. Under the 7th Constitutional amendment, it was stated that there can be the same governor for two different states. The Qualification that one needs to be eligible for a governor of a State/States are the following- must be a citizen of the country .should be 35 years and above,

Since the Governor holds the office under the pleasure of the President, his office has no fixed term. President can remove the Governor and the grounds upon which he may be removed are not laid down in the constitution. Governor may also get transferred from one state to another by the President. He also can be reappointed.

Note: The Chief Justice of the High Court of the concerned state can also be appointed as the Governor on a temporary basis when and how the President thinks fit. (Example - On the governor's death, Chief Justice of HC can be appointed as the governor.)

Arrest or imprisonment of the Governor cannot take place. Only civil proceedings can be initiated for his personal acts that too after giving two months of prior notice.

Under the executive structure of India, the role of the Governor of a state is similar to the President. The difference between the Governor and President is that while the powers of the President are applicable throughout the country, the powers of the Governor apply only to particular state. Furthermore, unlike the President, the Governor does not have emergency powers. He appoints the

- i State Election Commissioner
- ii. Chairman and Members of the State Public Service Commission
- iii. Vice-Chancellors of the universities in the state

He seeks information from the state government

A constitutional emergency in the state is recommended to the President by him.

The governor enjoys extensive executive powers as an agent of the President during the President's rule in the state.

As President nominates 12 members in Rajya Sabha, Governor appoints 11 of the total members of the legislative council from the fields of: Literature, Science, Art, Cooperative Movement, Social Service

As President nominates 2 members in the Lok Sabha, Governor nominates 1 member in state legislative assembly from Anglo-Indian Community.

Chief Minister: As a real executive authority, the Chief Minister is called the head of the government. He is assisted by his council of ministers who are a part of state executive along with Governor and Advocate-General of State. Chief Minister is the head of the government at the state level. While the governor is the nominal executive of the state government, chief minister is the real executive of the government.

Governor appoints Chief Minister. However, the Governor cannot appoint any random person as the Chief Minister but has to follow a provision.

A person not belonging to either house (Legislative Assembly & Council) can also be appointed as the Chief Minister, however, within six months of his tenure as a CM he should be elected to either house without which he ceases to be a CM.

He is a member of both the Prime Minister's Inter-State Council and the NITI Aayo Governing Council.

He is the state government's chief spokesman.

He announces all of the policies on the floor of the house.

All decisions of the council of ministers relevant to state administration must be communicated to the Governor by the CM. The CM advises the Governor on significant appointments such as the Attorney General, the State Public Service Commission (Chairman and Members), and the State Election Commission, among others

State Council of Ministers The overall number of Ministers in a State's Council of Ministers, including the Chief Minister, must not exceed 15% of the total number of members of the Legislative Assembly of that State

The State's Legislative Assembly will hold the Council of Ministers collectively accountable. The Governor shall administer the oaths of office and secrecy to a Minister before he assumes his office, using the forms set out in the Third Schedule for that purpose.

A Minister who is not a member of the: State Legislature for a period of six months or more ceases to be a Minister at the end of such period.

Qualifications needed to be a member of the state legislature are:

- (a) He must be a citizen of India.
- (b) He must bear true faith and allegiance to the Constitution of India.
- (c) He must be not less than 30 years of age in the case of the legislative council.

- (d) He must not be less than 25 years of age in the case of the legislative assembly.

Composition: Cabinet ministers of state and deputy ministers make up the council of ministers. The cabinet ministers are in charge of the major departments.

The independent charge is normally assigned to ministers of state. Cabinet ministers are assisted by deputy ministers.

The State council of ministers can be treated as the backbone of the government.

Significance of State legislature

The State Legislature's aim and objective are to create and introduce bills that are relevant to the state. Many powers and privileges are granted to members of the State Legislative Assembly that are equal to those granted to members of Parliament, however, these power and functions are limited to that particular State.

Article 169 of the Constitution allows states to have a Legislative Council in addition to the Legislative Assembly, much as Parliament does.

The six states with a Legislative Council are Andhra Pradesh, Telangana, Uttar Pradesh Bihar, Maharashtra, and Karnataka.

Qualifications of Members of Legislative Assembly

A person shall not be qualified to be selected to occupy a seat in the Legislature of a State unless he/she

(a) is an Indian citizen;(b) is 25 years or above for Legislative Assembly, and is 30 or above for Legislative Council, and(c) possess such other qualifications as may be prescribed by the Parliament.

Election Commission of India

The Election Commission of India (ECI) is a constitutional body. It was established by the Constitution (Article 324) of India to conduct and regulate elections in the country. The Election Commission is a permanent and an independent body.

The body administers elections to the Lok Sabha, Rajya Sabha, State Legislative Assemblies, State Legislative Councils and the offices of the President and Vice President of the country.

At Present

1. The Election Commission has been functioning as a multi-member body consisting of three election commissioners.
2. The chief election commissioner and the two other election commissioners have equal powers and receive equal salary, allowances and other perquisites, which are similar to those of a judge of the Supreme Court.
3. In case of difference of opinion amongst the Chief Election Commissioner and/or two other selection commissioners, the matter is decided by the Commission by majority.
4. They hold office for a term of six years or until they attain the age of 65 years, whichever is earlier and can resign at any time or can also be removed before the expiry of their term

Powers and Functions of ECI

Administrative powers

To demarcate electoral constituencies in the country on the basis of the Delimitation Commission Act of Parliament.

To prepare and periodically update electoral rolls and to register all eligible voters.

To notify the dates and schedules of elections and to scrutinise nomination papers.

To grant recognition to political parties and allot election symbols to them.

To cancel polls in the event of rigging, booth capturing, violence and other irregularities.

To supervise the machinery of elections throughout the country to ensure free and fair elections.

To register political parties for the purpose of elections and grant them the status of national or state parties on the basis of their poll performance

ECI appoints the following seats:

Chief Electoral Officer, District Election Officer, Returning Officer, Electoral Registration Officer

It regulates the campaign expenditure per candidate of all political parties without any discrimination.

Quasi-Judicial Powers: It acts as a court for settling disputes related to granting of recognition to political parties and allotment of election symbols to them.

To appoint officers for inquiring into disputes relating to electoral arrangements.

It defines a model code of conduct for all political parties and candidates and ensures they adhere to it during election season.

State Election Commission: is appointed by the Governor. Consisting of a State Election Commissioner, the superintendence, direction, and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats and the Municipalities (Articles 243K, 243ZA).

Recent Initiatives by election commission of India:

SVEEP-Systematic voter's education and electoral awareness program.

C-Vigil- to maintain the integrity of election process.

It creates awareness about the electoral process and electoral governance amongst stakeholders (political parties, voters, election functionaries, candidates and people at large) to enhance and strengthen confidence and trust in the electoral system of this country.

ECI helps in conducting elections with the highest standard of credibility, fairness, transparency, integrity, accountability, autonomy and professionalism.

In the electoral process, it ensures the participation of all eligible citizens in an inclusive voter-centric and voter-friendly environment.

Electoral Reforms: Pre-2000 Reforms:

1. Lowering voting Age: The 61st Amendment Act to the Constitution reduced the minimum age for voting from 21 to 18 years
2. The security deposit has also been hiked to prevent non-serious candidates.

3. Electronic Voting Machine (EVMs): First introduced in 1998 during the state elections of Delhi, Madhya Pradesh and Rajasthan, EVMs are used widely now as they are fool-proof, efficient and a better option in terms of the environment.
4. Disqualification on conviction for violating the National Honours Act, 1971: This shall lead to disqualification of the person for 6 years from contesting to the Parliament and the state legislatures.
5. Restriction on contesting from more than 2 constituencies: A candidate cannot contest from more than 2 constituencies.
6. It is prohibited by law to go to or near a polling booth bearing arms. This is punishable by imprisonment for up to 2 years.
7. On poll days, employees of organisations get a paid holiday and violation of this is punishable by a fine.
8. Prohibition on sale of liquor: No liquor or other intoxicants shall be sold or given or distributed at any shop, eating place, or any other place, whether private or public, within a polling area during the period of 48 hours ending with the hour fixed for the conclusion of poll.
9. Time limit for bye-elections: Bye-elections to any House of Parliament or a State Legislature will now be held within six months of the occurrence of the vacancy in that House.
10. The period of campaigning has been reduced.

Electoral Reforms Post 2000

1. Ceiling on election expenditure:
2. Restriction on exit polls:
3. Voting through postal ballot: In 2013, the EC decided to expand the ambit of postal ballot voting in the country. Previously, only Indian staff in missions abroad and defence personnel in a limited way, could vote via postal ballots. Now, there are 6 categories of voters who can use the postal ballot
4. Awareness Creation: The government decided to observe January 25th as 'National Voters Day' to mark the EC's founding day.
5. Political parties need to report any contribution in excess of Rs 20000 to the EC for claiming income tax benefit.
6. Declaring of criminal antecedents, assets, etc. by the candidates is required and declaring false information in the affidavit is now an electoral offence punishable with imprisonment up to 6 months or fine or both.

Constitutional Amendment

A constitutional amendment is a modification of the constitution of a polity, organization or the type of entity. Amendments are often interwoven into the relevant sections of an existing constitution, directly altering the text. Conversely, they can be appended to the constitution as apppellent additions (codicils), thus changing the frame of government without altering the existing text of the document.

Amending the Constitution of India is the process of making changes to the nation's fundamental law or supreme law. The procedure of amendment in the constitution is laid down Part XX (Article 368) of the Constitution of India. This procedure ensures the sanctity of the Constitution of India and keeps a check on arbitrary power of the Parliament of India. Article 368 of the Indian Constitution mentions two types of amendments to the Indian Constitution.

1. by a special majority of the Parliament (Lok Sabha & Rajya Sabha) and
2. The amendment is the by a special majority of the Parliament with the ratification by half of the total states.

Types of Amendments (Constitutional Amendment Process)

The procedure for the amendment of the Constitution as laid down in Article 368 is as follows:

1. An amendment of the Constitution can be initiated only by the introduction of a bill for the purpose in either House of Parliament (Lok Sabha & Rajya Sabha) and not in the state legislatures.
2. The bill can be introduced either by a minister or by a private member and does not require prior permission of the president.
3. The bill must be passed in each House by a special majority, that is, a majority (that is, more than 50 per cent) of the total membership of the House and a majority of two-thirds of the members of the House present and voting.
4. Each House must pass the bill separately.
5. In case of a disagreement between the two Houses, there is no provision for holding a joint sitting of the two Houses for the purpose of deliberation and passage of the bill.
6. If the bill seeks to amend the federal provisions of the Constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members of the House present and voting.
7. After duly passed by both the Houses of Parliament and ratified by the state legislatures, where necessary, the bill is presented to the president for assent. 8. The president must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament 9. After the president's assent, the bill becomes an Act (i.e., a constitutional amendment act) and the Constitution stands amended in accordance with the terms of the Act.

Important Amendments in the Indian Constitution: There have been 106 amendments in the Constitution of India up to September 2023. The first amendment was done in 1950. After that, the Constitution has been amended 105 times. This is the beauty of the Indian Constitution.

The process is, however, not that easy. It has mentioned that the Parliament can change its procedures but cannot amend those provisions which are the basis of the 'basic structure' of the Constitution. The Constitution of India is neither flexible nor rigid enough but it is a synthesis of both.

First Amendment Act, 1951: Added 9 Schedule to protect the land reform and other laws included in it from the judicial review.

(7th Amendment) Act, 1956: Provision of having a common high Courts for two or more states introduced. ,Introduction of Union territories.

(10th Amendment) Act, 1961: Incorporation of Dadra, Nagar and Haveli as a Union Territory, consequent to acquisition from Portugal,

(13th Amendment) Act, 1963: Formation of State of Nagaland, with special protection under Article 371A.

(15th Amendment) Act, 1963: Enabled the High court's to issue writs to any person or authority even outside its terrorist's jurisdiction if the cause of action arises within its territorial limits.

Increased the retirement age of high court judges from 60 to 62 years. Provided for the appointment of retired judges of the high court's as acting judges of the same court.

(24th Amendment) Act, 1971: Affirmed the power of Parliament to amend any part of the Constitution including Fundamental Rights.

Made it compulsory for the president to give his assent to a constitutional Amendment Bill.

(25th Amendment) Act, 1971: Fundamental Rights to property was curtailed.

(31st Amendment) Act, 1973

Increased the elective strength of the Lok Sabha from 525 to 545. Under the Act, the upper limit of representatives of the States goes up from 500 to 525 and that of the Union Territories decreases from 25 to 20.

(36th Amendment) Act, 1975: Sikkim became the 22nd State of the Indian Union.

(40th Amendment) Act, 1976: 1. Empowered the Parliament to specify from time to time the limits of the territorial water, the continental shelf, the Exclusive Economic Zone (EEZ) and the maritime zones of India

2. Included 64 more Central and state laws, mostly relating to land reforms, in the 9th Schedule

(42nd Amendment) Act, 1976 (Mini Constitution)

The Amendment established beyond doubt the supremacy of Parliament over the other wings of Government; gave the Directive Principles precedence over the Fundamental Rights; enumerated for the first time a set of ten Fundamental Duties.

It further imposed limits on the power and jurisdiction of the judiciary; raised the term of the Lok Sabha and the Vidhan Sabha from five to six years; authorised the use of Central armed forces in any State to deal with law and order problems, made the President bound by the advice of the Council of Ministers and envisaged the establishment of administrative tribunals for service matters of Government employees and also other tribunals for economic offences.

The Act also clearly laid down that no Constitutional Amendment could be questioned in any court of law.

The Constitution (43rd Amendment) Act, 1978

This Act repeals the obnoxious provisions of the Constitution (42nd Amendment) Act passed during the Emergency. It restores civil liberties by deleting Article 3ID which

gave powers to Parliament to curtail even legitimate trade union activity under the guise of legislation for the prevention of anti-national activities.

3. The new law, which was ratified by more than half of the States in accordance with the Constitution, also restores legislative powers to the States to make appropriate provision for anti-national activities consistent with the Fundamental Rights.

(44th Amendment) Act, 1978

The Act removes major distortions in the Constitution introduced during the Emergency. The Right to Property ceases to be a Fundamental Right and becomes only a legal right according to the Constitution 44th Amendment.

The 44th Amendment provides safeguards against future subversion of the Constitution for establishing an authoritarian regime. It contains provisions that are designed to make it impossible to impose the kind of emergency the country had experienced for 19 months.

The Constitution (46th Amendment) Bill, 1982

it seeks to authorise the government to prepare an authoritative text of the Constitution, in Hindi.

The Constitution (52nd Amendment) Act, 1985

10th Schedule was added. The Act has made defection to another party, after elections illegal. Any member defecting to another party after elections will be disqualified from being Member of Parliament or State Legislature.

The Constitution (55th Amendment) Act, 1987

It grants Statehood to Arunachal Pradesh which consequently became the 24th State of the Indian Union.

The Constitution (56th Amendment) Act, 1987:

It confers Statehood on Goa and forms a new Union Territory of Daman and Diu. Goa thus became the 25th State of the Indian Republic.

The Constitution (57th Amendment) Act, 1987

It made a special provision for the setting up of the new State of Goa. Consequently Daman and Diu were separated from the former to form a Union Territory.

The Constitution (58th Amendment) Act, 1988

1. It provides for special arrangements with regard to reservation of seats for Scheduled Tribes in the States of Arunachal Pradesh, Nagaland, Mizoram and Meghalaya. By amending Article 322 the adjustment of seats has been frozen until 2000 A.D.

The Constitution (59th Amendment) Act, 1988

Under the amendment, the President's rule can be extended up to three years. The earlier maximum period was two years.

The Constitution (61st Amendment) Act, 1989

It lowered the voting age from 21 to 18.

The Constitution (69th Amendment) Act, 1991

Union territory Delhi made National Capital territory of Delhi. The Act also made provision for Legislative assembly and a council of ministers for Delhi.

The Constitution (71st Amendment) Act, 1992

The act amends the 8th Schedule to the Constitution to include Konkani, Manipuri and Nepali Languages in the 8th Schedule of the Constitution.

The Constitution (73rd Amendment) Act, 1992

Panchayath raj institutions were given constitutional status. Part 9 and 11th schedule were added. reserve seats for SCs and STs in proportion to their population; and for reservation of not less than one-third of the seats in Panchayats for women.

The Constitution (74th Amendment) Act, 1992

Constitutional status to Urban bodies. It was made to ensure direct election to all seats in Nagarpalikas and Municipalities.

The Constitution (75th Amendment) Act 1994

It provides for setting up of State-level Rent Tribunals to exclude the jurisdiction of all courts, except that of the Supreme Court, under Article 136 of the Constitution.

The Constitution (76th Amendment) Act, 1994

It relates to the Reservation of Seats in Educational Institutes and of appointments or posts in the Services under a State, for Backward Classes, Scheduled Castes and Scheduled Tribes.

The Constitution (78th Amendment) Act, 1995

It includes land reform laws in the Ninth Schedule so that they cannot be challenged before the courts.

The Constitution (84th Amendment) Act, 2001

Extended ban on the readjustment of seats in the Lok Sabha and the state legislature assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures.

The Constitution (86th Amendment) Act, 2002.

Elementary education a fundamental right. And early childhood care until the age of six. A new fundamental duty was added to Provide the Right to Education until the age of fourteen

The Constitution (88th Amendment) Act, 2003

Made provision for service tax (Article 268-A)

Restricted the size of the Council of Ministers (CoM) to 15 percent of legislative members & strengthened the Anti Defection laws.

The Constitution (92nd Amendment) Act, 2004

Included Bodo, Dogri, Santali and Maithali as official languages (18 to 22).

The Constitution (93rd Amendment) Act, 2006

Provided for 27 percent reservation for other backward classes in government as well as private higher educational institutions.

The Constitution (94th Amendment) Act, 2006

To provide for a Minister of Tribal Welfare in newly created Jharkhand and the Chhattisgarh States including Madhya Pradesh and Orissa.

The Constitution (97th Amendment) Act, 2012

"Co-operative societies" were granted constitutional status. Right to form co-operative society is made a fundamental right. A new DPSP (A 43 B) was added.

The Constitution (98th Amendment) Act, 2013

To empower the Governor of Karnataka to take steps to develop the Hyderabad-Karnataka Region.

The Constitution (99th Amendment) Act, 2014

The amendment provides for the formation of a National Judicial Appointments Commission.

The Constitution (100th Amendment) Act, 2015

related to the Land Boundary Agreement (LBA) between India and Bangladesh.

The Constitution (101th Amendment) Act, 2017: Introduced the Goods and Services Tax (GST) in the country since 1 July 2017.

The Constitution (102th Amendment) Act, 2018:

It gave Constitutional status to National Commission for Backward Classes (NCBC)

The Constitution (103th Amendment) Act, 2019: It provided a maximum of 10% Reservation for Economically Weaker Sections (EWSs).

The Constitution (104th Amendment) Act, 2020: It extended the reservation of seats for SCs and STs in the Lok Sabha and states assemblies. **But removed reservation of seats for Anglo Indians in Lok sabha & state Assemblies.**

The Constitution (105th Amendment) Act, 2021:

Restored state governments power to prepare socially and economically Backword classes list(SEBC)

The Constitution (106th Amendment) Act, 2023: This was women's reservation bill. 1/3 of all seats for women in Loksabha, state assemblies, legislative assembly of the National Capital territory of Delhi , including those reserved for ScSTs reSo,

Conclusion: This process was taken from South Africa. What we must realize is that the constitution is the backbone of this democracy. While it was revolutionary of the fathers of our constitution to provide provisions to amend the constitution, it is essential that such provisions are not misused. Misuse could result in excessive power of the legislative or the executive which could tear the fabric of our democracy.

EMERGENCY PROVISIONS: The Emergency Provisions are contained in part XVIII of the Indian constitution from article 352 to 360. These provisions enable the central government to satisfy any abnormal situation effectively. The central government becomes all powerful during the emergency period and the states go under control of the union. The rationality behind the incorporation of these provisions of the Indian

constitution is to protect the Sovereignty, Unity, Integrity and Security of the nation, the democratic political system and the constitution.

Three types of emergencies under Constitution of India:

1. National emergency: Due to war, external aggressions, or armed rebellion (Art 352).
2. State emergency: Due to the failure of constitutional machinery in states, this is popularly known as Presidential Rule (Art 356).
3. Financial emergency: Due to a threat to the financial constancy or credibility of India (Art 360).

National Emergency(1962 Chinese aggression,1971 Indo Pak war, 1975 internal disturbances) According to Article 352, The president shall not issue a proclamation without consulting the union cabinet (i.e., the council of ministers and the prime minister) such a proclamation may be issued has been communicated to him in writing. This means that the emergency will be declared only on the conformity of the cabinet, and not merely on the advice of the prime minister.

The first emergency in the Nation was declared during the war with China, which lasted between 1962 and 1968. After that, the most contentious emergency was declared due to internal conflict by Smt. Indira Gandhi.

State Emergency Article 356: marks out that the President can declare a state emergency on receipt of briefs by the Governor of a particular state or by the President's observation on degrading mechanisms of the state. Thirty-five instances of President Rule have been recorded under the rule of Smt. Indira Gandhi,

Financial Emergencies In Article 360: It empowers the president to proclaim a financial emergency if he is satisfied that a situation has arisen, where the financial stability or constancy or credit of India or any part of its territory is threatened. In other words, it means whenever the president is contended that the economy of India is in danger, he may proclaim this emergency. Financial emergency has never been declared in India.

During the proclamation of the financial emergency, the union acquires full control over the states in financial matters.

Emergency provisions were amended under the Constitution for the security of the country and for the protection of its people but these provisions delegates excessive power to the Executives. This affects the federal character of the Constitution, and the union becomes all powerful.

ETHICS & VALUES

What are values and ethics?

Values are basic and fundamental beliefs that guide or motivate attitudes or actions. They help us to determine what is important to us. Ethics is concerned with human actions, and the choice of those actions. Ethics evaluates those actions, and the values that underlie them

What is the difference between ethics moral and values?

Values are ideals of someone (or a group) about what is good or bad (or desirable or undesirable). Ethics is all about reasoning how to do the right action. Values motivate, while morals and ethics constrain. The word Morals originated from the Latin word Mos.

What are the main principles of ethics?

The principles of ethics are beneficence, non-maleficence, autonomy, justice; truth-telling and promise-keeping.

What is more important values or ethics?

Ethics are consistent, whereas values are different for different persons, i.e. what is important for one person, may not be important for another person. Values tell us what we want to do or achieve in our life, whereas ethics helps us in deciding what is morally correct or incorrect, in the given situation.

The major differences between Ethics vs Values are:

Ethics	Values
Ethics refers to a system of moral principles.	Values are associated with the thought process, a person's sense of what is wrong and what is right.
Ethics aligns with a professional setup.	Values are associated with personal aspects of a person.
Ethics has three major areas of study – Meta-Ethics, Normative Ethics, Applied Ethics.	Different types of values are moral values, social values, aesthetic values, religious values, political values.
Ethics will be consistent within a professional setup but would vary between three different organizations or institutions.	Values vary from person to person, it need not be consistent.
Ethics are determined by an institution, organization and varied professions. Ethics that are followed by medical professionals will be different from ethics followed in the public administration domain.	Values formed in a person are determined by family values, religion, culture, community etc.
Ethics could act as a constraint. The action that needs to be taken in an organization could be consistent with the values of a person. However, there could be chances that it cannot be executed as it may not align with the ethical standards of the profession, organisation or institution.	Values could act as a catalyst for the necessary motivation in a person.

Ethics is a branch of Philosophy and it has multi-dimensionsIt can be applied in many fields like environment, cyberspace, public sphere, international relations, and so on.

Types of Ethics (Dimensions of Ethics)

Ethics is mainly divided into four main branches. They are as follows:

Meta-Ethics: (Ethics about Ethics)

Prescriptive Ethics: (also known as Normative Ethics) – which is again divided into Deontological Ethics, Teleological Ethics, and Virtue Ethics.

Descriptive Ethics: (also known as Comparative Ethics)

Applied Ethics: It is again divided into Bioethics, Cyber Ethics, Environmental Ethics, Personal Ethics, Professional Ethics, Public Ethics, International Ethics, and so on.

1. Meta-Ethics

Meta-ethics can be defined as a branch of ethics that is concerned with the study of the nature of ethics. It analyzes the meaning when we use words like good, bad, right, and wrong.

Meta-Ethics is more about philosophy in nature as it deals with the nature of ethics and morality.

Meta-ethics investigates where our moral and ethical principles come from and what is the meaning behind using them.

Deals with questions like What is meant by being right? OR what is meant by being wrong?

Deals with the definition of right and wrong.

Meta means about the thing itself.

So Meta-Ethics is Ethics about Ethics.

Meta-Ethics is more concerned with the terms of morality in the language we use.
How do we define 'good' or 'bad'?

For Example: "What is meant by a wrong action?" Another example is, when we say, 'abortion is good', or 'abortion is bad'?

2. Prescriptive Ethics (Normative Ethics)

Prescriptive Ethics, also known as, Normative ethics can be defined as the study of ethical action, typically based on what is morally right and wrong.

Normative ethics is more practical as it applies to basic human behavior and actions. There are mainly three theories that come under normative ethics. Deontological, Teleological (Consequential), Virtue.

Deals with questions like "is that action right (ethical)? OR was that act wrong?

Checks if the action/outcome of action fits into the definition of right or wrong.

Deontological Ethics (Focus on action/duty), Teleological Ethics (Focus on the outcome/end), and Virtue Ethics are the sub-branches.

For Example; is it wrong to kill a person to save many lives?

Prescriptive Ethics involves systematizing, defending, and recommending concepts of right and wrong action (behavior). It also includes arriving at moral standards that guide to act right or wrong. It is an ideal litmus test of identify behavior.

3. Descriptive Ethics (Comparative Ethics): Descriptive ethics can be defined as describing and explaining people's moral attitudes and the moral norms and practices of societies. It deals with what is believed to be good, right, or virtuous & moral practices societies do have.

Descriptive ethics are also known as comparative ethics and it is empirically based, and aim to discover and describe the moral beliefs of a specific culture.

Deals with people's beliefs about morality.

Deals with what society thinks is good or bad.

It is an empirical investigation of the moral beliefs of various groups.

For Example; How many of you think that it is wrong to kill a person? Another example is when we say "Everyone has a moral right to a good education".

It is an approach to describe what people think about morality or when want to describe how people actually behave according to their morals.

4. Applied Ethics: Applied ethics can be defined as a branch of moral philosophy that attempts to apply ethical principles and moral theories to real-life moral issues.

The most practical branch of ethics.

Deals with ethical questions specific to practical fields.

Includes bioethics, legal ethics, business ethics, medical ethics, etc.

Scope & Aims of Professional and engineering ethics.

The scope of professional and engineering ethics includes guidance for ethical conduct in all aspects of an engineer's work, such as design, project management, research, and development, focusing on safety, sustainability, and social impact. The aim is to ensure engineers act responsibly by adhering to professional codes of conduct, minimizing risks, upholding public trust, and considering the societal and environmental consequences of their work.

Scope

- **Design and Innovation:** Engineers must ensure their designs are safe, reliable, and sustainable, and do not pose risks to human health or the environment.
- **Project Management:** Ethical considerations are crucial throughout a project's lifecycle, from planning and budgeting to resource allocation and stakeholder engagement.
- **Research and Development:** Maintaining the integrity of research through accurate and transparent data collection, experimentation, and reporting is a key part of the scope.
- **Environmental and Social Impact:** This involves considering the broader societal and environmental implications of engineering work and striving to minimize negative impacts.
- **Regulatory Compliance:** The scope includes adhering to all relevant laws, regulations, and professional codes of conduct.
- **Professional Conduct:** Ethics guides behavior in all professional activities, including consulting, teaching, manufacturing, and writing.

Aim : Establish Professional Standards: To provide a framework and benchmarks for professional performance and responsibilities.

Ensure Public Safety: To prioritize the safety and well-being of the public by ensuring engineering projects do not cause harm.

Foster Public Trust: To build and maintain confidence from individuals and the public in the engineering profession.

Promote Responsible Conduct: To encourage engineers to act with integrity, responsibility, and a commitment to ethical principles, rather than just avoiding punishment for mistakes.

Consider Wider Impact: To ensure engineers consider and mitigate the social and environmental effects of their work on current and future generations.

positive and negative faces of engineering ethics

The positive face of engineering ethics involves **aspirational and proactive** actions like developing life-saving technology to benefit society, while the negative face is **preventative**, focusing on rules and prohibitions to avoid harm, such as preventing conflicts of interest. While preventative ethics is crucial for safety and integrity, aspirational ethics, which focuses on improving quality of life, is seen by some as preferable for encouraging engineers to go "above and beyond" the basic requirements to promote the public welfare, according to [Scribd](#) and [Course Hero](#).

Positive face (aspirational ethics)

Focus: Going above and beyond to benefit society and improve quality of life.

Actions: Developing innovative and life-saving technologies, volunteering to work on projects that help underdeveloped communities, and promoting the "welfare" of the public.

Examples: Designing a new energy-saving device.

Creating a water purification system for a developing country.

Improving a product to enhance safety, like developing sealed-beam headlights or airbags.

Negative face (preventative ethics)

Focus: Following rules and prohibitions to prevent harm and unethical behavior.

Actions: Adhering to professional codes of conduct and regulations to avoid negative outcomes.

Examples: Avoiding conflicts of interest.

Not lying on a resume or in reports.

Not maliciously or falsely criticizing other engineers.

Ensuring public safety and welfare in every project.

clash of ethics:

A "clash of ethics" is a situation where an individual or group faces conflicting moral principles, obligations, or values, creating a dilemma where no choice is ideal. These situations are often called ethical conflicts or dilemmas and can involve competing duties, principles, or a clash between personal integrity and external pressures. Examples include choosing between professional duties and personal values or deciding how to apply a general rule to a specific, complex case.

The "3 C's of ethics" most commonly refers to Compliance, Contribution, and Consequences, a framework for business ethics. It involves adhering to laws and standards (Compliance), making a positive social and environmental impact (Contribution), and understanding the outcomes of actions on stakeholders (Consequences).

Conflict of interest

- This occurs when personal interests (private, financial, or relational) could interfere with professional duties or responsibilities.
- It is a situation, not necessarily an unethical action, that creates the risk of biased decision-making.
- **Example:** A government official awarding a contract to a family-owned company, even if the contract is fair, can create a conflict of interest due to potential favoritism.
- **Another example:** A doctor recommending a treatment from a company they have a financial stake in.

impediments to responsibility

include **self-interest, fear, and ignorance**. Other barriers are **self-deception, egocentric tendencies, microscopic vision, uncritical acceptance of authority, and groupthink**.

These obstacles can prevent individuals and groups from taking ownership of their actions and making morally sound decisions, as explained in sources like [this Scribd document](#) and [this Course Hero document](#).

Individual impediments

- **Self-interest:** Prioritizing personal gain over ethical considerations.

- **Fear:** The fear of negative consequences, such as job loss or punishment, can inhibit taking responsibility.
- **Self-deception:** Convincing oneself that they are not at fault or that the problem is not their concern.
- **Ignorance:** Lack of knowledge or willful avoidance of vital information can lead to a failure to act responsibly.
- **Egocentric tendencies:** Viewing situations only from one's own perspective and failing to consider the impact on others.
- **Microscopic vision:** Focusing too narrowly on specific details while missing the bigger picture and its consequences.
- **Group and organizational impediments**
- **Uncritical acceptance of authority:** Blindly following directives from authority figures, even when they may be wrong.
- **Groupthink:** A phenomenon where a group prioritizes consensus over critical thinking, leading to a flawed decision.

Overcoming impediments

- **Self-awareness and critical thinking:** Recognizing these biases is the first step toward overcoming them.
- **Effective communication:** Openly discussing issues, such as in a "Daily Scrum," allows teams to identify and address impediments collaboratively.
- **Focus on the bigger picture:** Actively working to understand multiple perspectives and the broader consequences of actions.

TRUST AND RESPONSIBILITY IN ENGINEERING are founded on the obligation to prioritize public safety, uphold professional ethics like honesty and integrity, and maintain competence through continuous learning. This includes being transparent, protecting confidential information, respecting colleagues, and being accountable for actions that can affect the health, safety, and welfare of the public. A culture of trust among colleagues also enhances performance through open communication and collaboration.

Core principles of trust and responsibility

- **Public safety and welfare:** Engineers have a fundamental duty to hold the safety, health, and welfare of the public as their top priority.
- **Honesty and integrity:** Upholding the highest standards of professional conduct, which includes being honest, truthful, and transparent in all work and interactions.

- **Competence:** Engineers must only undertake work they are qualified for and must commit to continuous learning to maintain their skills and knowledge.
- **Accountability:** Engineers must take responsibility for their work, actions, and words, and report unethical or corrupt practices when observed.

Responsibilities to the public and clients

- Prioritize public health, safety, and welfare above all other considerations.
- Notify employers or clients if their judgment is overruled in circumstances that endanger life or property.
- Provide accurate and truthful reports, calculations, and assessments.
- Protect the confidentiality of client information and intellectual property.

Responsibilities to the profession and colleagues

- Avoid actions that could damage the reputation of the profession and act with fairness and respect towards others.
- Give full credit to the work of others and refrain from taking undue credit.
- Support colleagues in their professional development and give a fair hearing to their opinions.
- Avoid conflicts of interest and declare them if they arise.

The role of trust in teams and organizations

- **Collaboration and communication:** A high-trust environment encourages engineers to share ideas openly, speak up about concerns, and collaborate effectively, leading to better problem-solving and performance.
- **Reliability and accountability:** When team members are reliable and accountable, it builds a foundation of trust where they can depend on one another.
- **Leadership:** Leaders who trust their employees and demonstrate it through their actions can foster a culture of trust that supports innovation and growth.

In engineering, IPR stands for Intellectual Property Rights, which are legal rights that protect the innovations and creations of engineers, such as inventions, designs, and software. These rights provide inventors with exclusive control over their work, allowing them to gain financial benefits or recognition from their creations.

Protection for creations: IPRs protect the products and technologies developed by engineers, including patents for new inventions, copyrights for software, and industrial design rights for product aesthetics.

Commercialization: Protecting intellectual property is crucial for the commercialization of new technologies, giving the inventor a competitive edge in the market.

Academic context: Universities and engineering institutes often have IPR policies to manage and protect the intellectual property created by their students, faculty, and staff.

Range of protection: IPR encompasses various forms of protection, such as patents, trademarks, copyrights, industrial designs, trade secrets, and geographical indications.

risk safety and liability in engineering Risk in engineering is the possibility of harm or loss, while safety is freedom from danger. Engineers are responsible for protecting public safety by managing risks through careful design, analysis, and adherence to codes, as negligence or errors can lead to liability. Liability arises when an engineer's work leads to adverse outcomes, and it is often mitigated by professional competence, insurance, and robust management processes.

Risk And Safety In Engineering:

Risk is inherent: Engineering, especially innovation, inherently involves risk because new materials, designs, and processes may have unknown long-term effects.

Safety is the goal: The core principle of engineering ethics is to hold the safety, health, and welfare of the public paramount. Therefore, engineers have an obligation to minimize risk.

Inverse relationship: There is an inverse relationship between risk and safety. The more risk that is accepted in a project, the less safe it will be.

Risk assessment: Engineers define risk as a combination of the likelihood and magnitude of harm and may use cost-benefit analysis to determine an acceptable level of risk.

Liability in engineering

- **Source of liability:** Liability arises from negligence or errors in an engineer's work, which can result in financial loss or harm to the public.
- **Professional responsibility:** Engineers are liable for ensuring designs comply with laws and accepted practices.
- **Normalization of deviance:** Accepting minor anomalies or deviations from safety standards instead of correcting them can lead to future accidents and is a significant liability risk.
- **Mitigating liability:** To reduce liability, engineers can:
 - Maintain professional competence through continuing education.
 - Engage in peer reviews of designs.
 - Implement strong quality control and management systems.
 - Obtain professional liability insurance, which is crucial for covering potential claims, especially when past employers are no longer in business.
- Use methods like mediation-arbitration to settle disputes, which can be more advantageous than traditional litigation.

Practical management

- **Contingency plans:** For each identified risk, a contingency plan should be developed. This can involve avoiding the risk, substituting materials, or implementing reinforced designs, for example, to mitigate the impact of natural disasters.
- **Safety culture:** Fostering a strong safety culture within an organization is as important as safety in design and processing to prevent failures.
