

HISTORICAL BACKGROUND

The British came to India in 1600 as traders, in the form of East India Company, which had the exclusive right of trading in India under a charter granted by Queen Elizabeth I. In 1765, the Company, which till now had purely trading functions obtained the 'diwani' (i.e., rights over revenue and civil justice) of Bengal, Bihar and Orissa.

This started its career as a territorial power. In 1858, in the wake of the 'sepoy mutiny', the British Crown assumed direct responsibility for the governance of India. This rule continued until India was granted independence on August 15, 1947.

They are explained here in chronological order under two major headings:

The Company Rule (1773 – 1858)

1. Regulating Act of 1773
2. Amending Act of 1781
3. Amending Act of 1781
4. Act of 1786
5. Act of 1786
6. Act of 1786
7. Charter Act of 1833
8. Charter Act of 1833

The Crown Rule (1858 – 1947)

1. Government of India Act of 1858
2. Indian Councils Act of 1861
3. Indian Councils Act of 1861
4. Indian Councils Act of 1861
5. Government of India Act of 1919
6. Government of India Act of 1919
7. Government of India Act of 1935
8. Government of India Act of 1935

Note: For detailed discussion, it is recommended to refer “Indian Polity” by Lakshmikanth

MAKING OF THE CONSTITUTION

Demand for a Constituent Assembly

It was in 1934 that the idea of a Constituent Assembly for India was put forward for the first time by M.N. Roy, a pioneer of communist movement in India. In 1935, the Indian National Congress (INC), for the first time, officially demanded a Constituent Assembly to frame the Constitution of India. In 1938, Jawaharlal Nehru, on behalf the INC declared that 'the Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of the adult franchise'.

Composition of the Constituent Assembly

1. The total strength of the Constituent Assembly was to be 389. Of these, 296 seats were to be allotted to British India and 93 seats to the princely states. Out of 296 seats allotted to the British India, 292 members were to be drawn from the eleven governors' provinces and four from the four Chief Commissioners' provinces, one from each.
2. Each province and princely state (or group of states in case of small states) were to be allotted seats in proportion to their respective population. Roughly, one seat was to be allotted for every million population.
3. Seats allocated to each British province were to be divided among the three principal communities—Muslims, Sikhs and General (all except Muslims and Sikhs), in proportion to their population.
4. The representatives of each community were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferable vote.
5. The representatives of the princely states were to be nominated by the heads of the princely states.

Additional Topics

WORKING OF THE CONSTITUENT ASSEMBLY - WORKING OF THE CONSTITUENT ASSEMBLY - ENACTMENT & ENFORCEMENT OF THE CONSTITUTION - EXPERTS COMMITTEE OF THE CONGRESS - CRITICISM OF THE CONSTITUENT ASSEMBLY.

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THE PREAMBLE

The Preamble to the Indian Constitution is based on the 'Objectives Resolution', drafted and moved by Pandit Nehru, and adopted by the Constituent Assembly. It has been amended by the 42nd Constitutional Amendment Act (1976), which added three new words—Socialist, Secular and Integrity.

Text of the Preamble

The Preamble in its present form reads:

“We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, Social, Economic and Political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION”

Ingredients of the Preamble

The Preamble reveals four ingredients or components:

- ✓ Source of authority of the Constitution: The Preamble states that the Constitution derives its authority from the people of India.
- ✓ Nature of Indian State: It declares India to be of a sovereign, socialist, secular democratic and republican polity.
- ✓ Objectives of the Constitution: It specifies justice, liberty, equality and fraternity as the objectives.
- ✓ Date of adoption of the Constitution: It stipulates November 26, 1949, as the date

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Key Words in the Preamble

Certain key words—Sovereign, Socialist, Secular, Democratic, Republic, Justice, Liberty, Equality and Fraternity—are explained as follows:

FUNDAMENTAL RIGHTS

1. Right to equality (Articles 14–18)
2. Right to freedom (Articles 19–22)
3. Right against exploitation (Articles 23–24)
4. Right to freedom of religion (Articles 25–28)
5. Cultural and educational rights (Articles 29–30)
6. Right to property (Article 31)
7. Right to constitutional remedies (Article 32)

FUNDAMENTAL DUTIES

According to Article 51A, it shall be the duty of every citizen of India:

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals that inspired the national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of the country's composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
- (h) to develop scientific temper, humanism and the spirit of inquiry

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and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(k) to provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002.

CITIZENSHIP

A legal status and relation between an individual and a state that entails specific legal rights and duties.

The Constitution confers the following rights and privileges on the citizens of India (and denies the same to aliens):

1. Right against discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
2. Right to equality of opportunity in the matter of public employment (Article 16).
3. Right to freedom of speech and expression, assembly, association, movement, residence and profession (Article 19).
4. Cultural and educational rights (Articles 29 and 30).
5. Right to vote in elections to the Lok Sabha and state legislative assembly.
6. Right to contest for the membership of the Parliament and the state legislature.
7. Eligibility to hold certain public offices, that is, President of India, Vice-President of India, judges of the Supreme Court and the high courts, Governor of states, Attorney General of India and Advocate General of states.

Citizenship Act, 1955

The Citizenship Act (1955) provides for acquisition and loss of citizenship after the commencement of the Constitution.

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Originally, the Citizenship Act (1955) also provided for the Commonwealth Citizenship. But, this provision was repealed by the Citizenship (Amendment) Act, 2003.

Acquisition of Citizenship

The Citizenship Act of 1955 prescribes five ways of acquiring citizenship, viz, birth, descent, registration, naturalisation and incorporation of territory:

- ✓ By Birth
- ✓ By Descent
- ✓ By Naturalization
- ✓ By Registration
- ✓ By Incorporation of Territory

Loss of Citizenship

The Citizenship Act (1955) prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination and deprivation:

- ✓ By Renunciation
- ✓ By Termination
- ✓ By Deprivation

AMENDMENT OF THE CONSTITUTION

Procedure for Amendment

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 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 of the total membership of the House and a majority of two-thirds of the members of the House present and voting.

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4. Each House must pass the bill separately. 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.

5. 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.

6. 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.

7. 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.

8. 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.

Types of Amendments

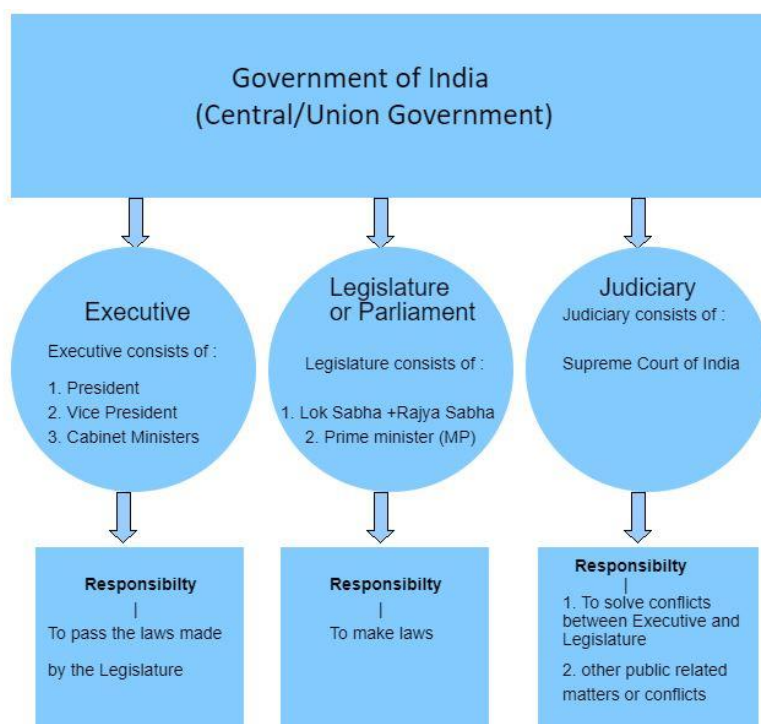
The Constitution can be amended in three ways:

- (a) Amendment by simple majority of the Parliament,
- (b) Amendment by special majority of the Parliament, and
- (c) Amendment by special majority of the Parliament and the ratification of half of the state legislatures.

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SYSTEM OF GOVERNMENT

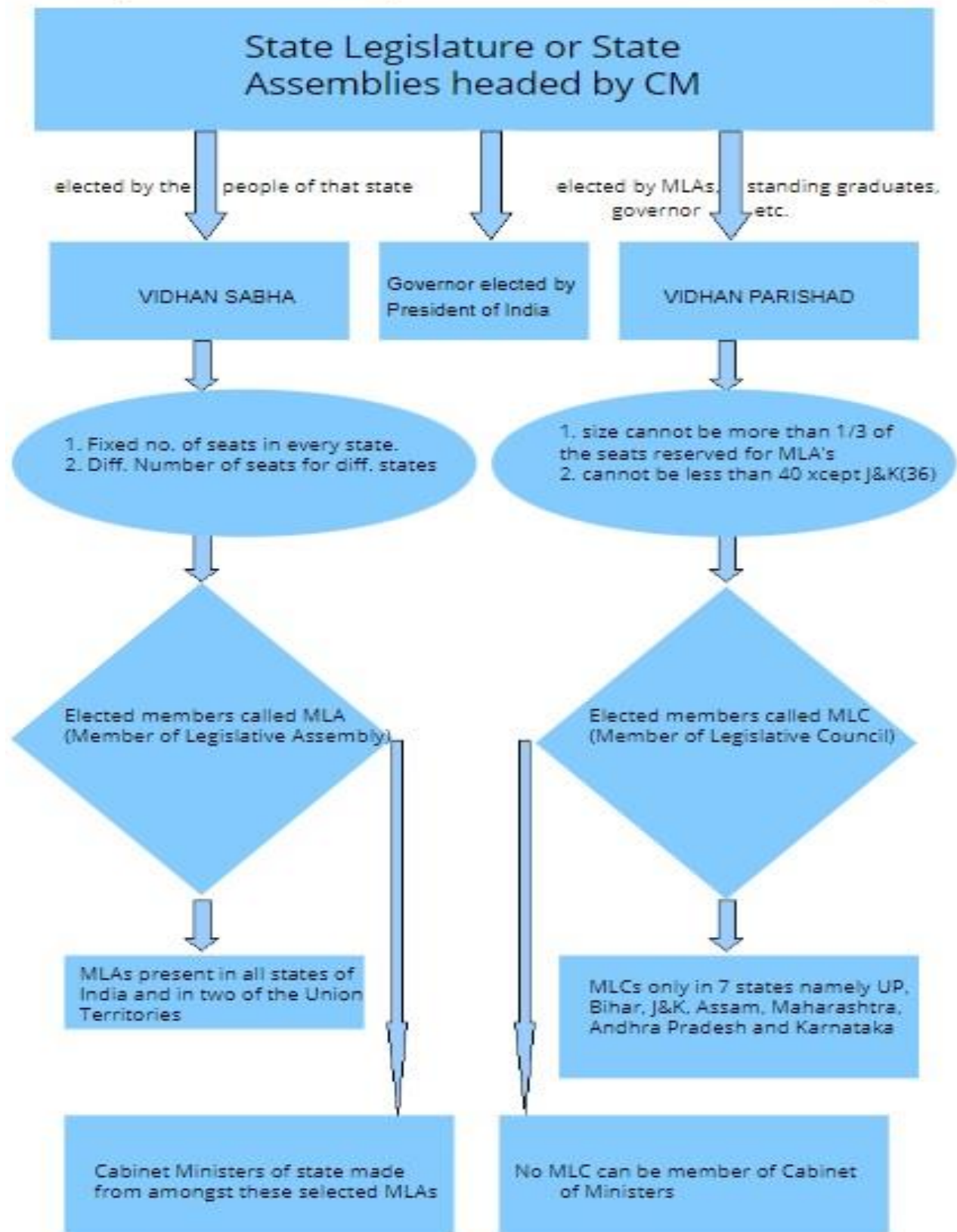
The **Government in India** or the central or the union government is divided into three main sections namely the executive, legislature and the judiciary shown as under. The responsibility of each section of the government is also mentioned along.



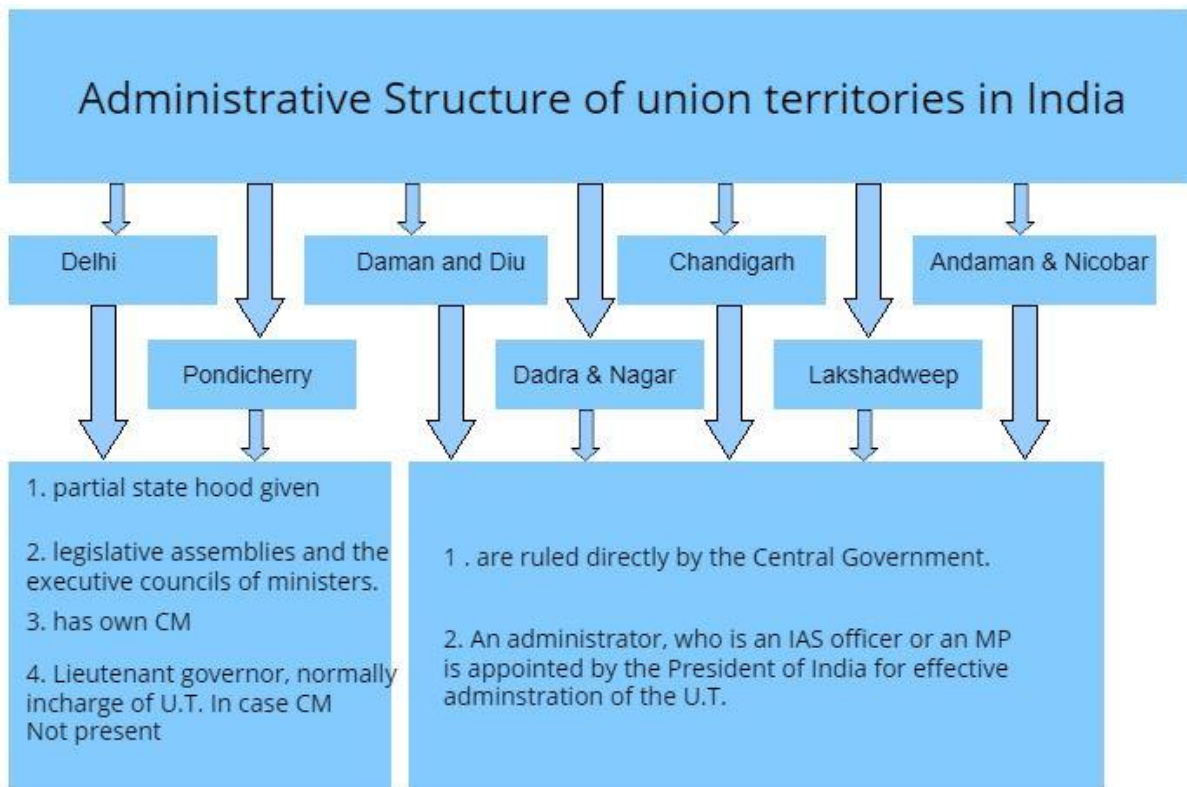
The **state legislature** or the state assembly in India is headed by the chief minister of that state. The state legislature is divided into two parts namely the vidhan sabha and the vidhan parishad. The governor for the state assemblies is elected by the chief minister himself. Below a complete flowchart is given about the state legislatures (assemblies) in India to make things more clear.

There are a total of 7 **union territories** in India namely Delhi, Pondicherry, Daman and Diu, Dadra & Nagar, Chandigarh, Lakshadweep and Andaman & Nicobar Islands. The administrative structure of Delhi, Pondicherry is quite different from those of the rest of the union territories. Go through the flow chart to know the difference between the two sets of UT's in India.

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