

SUMMARY SHEET



*Indian Political
System*





EduTap Hall of Fame



NABARD Grade A 2021

62 Selections Out of 74



Mr. Albin Sunny



Mr. Amol Darade



Mr. Ankith



Mr. Deepak Kumar



Mr. Gowtham



Mr. Vikram Joshi



Mr. Vinayak Langote



Ms. Arti Shukla



Mr. Nimish



Mr. Nithin



Mr. Prajakt Dhawale



Mr. Pravin



Ms. Dharana



Ms. Pavithra

RBI Grade B 2020 - 21

198 Selections Out of 257



Mr. Ajil



Mr. Aman Choudhary



Mr. Arun Sharma



Ms. Ila Sahu



Mr. Nishant Yadav



Ms. Ojaswi Dale



Mr. Parimal S Athaley



Ms. Resmarani Sahoo



Mr. Ryan Varghese



Mr. Shubham



Mr. Somya Atre



Ms. Srishti Dabas



Ms. Twinkle Dahliya



Mr. Vaibhav Nayer

SEBI Grade A 2022

58 Selections Out of 80



Abhishek Ashish



Anurag Bolia



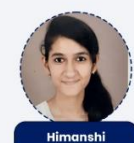
Avinash Jaiswal



Chetan Choraria



Gourav Singh



Himanshi



Vishwabahu



Rishabh



Roshan Lal



Srinidhi Adhikary



Sushant Sanjay



Suvarna



Vivek Sharma



Shweta Meena

Contents

1	Part I: Introduction	7
1.1	What is Polity?	7
1.2	What is a constitution?	7
1.3	Types/Classification of the Constitution	7
1.3.1	Written Constitution	7
1.3.2	Un-written Constitution	7
1.3.3	Unitary Constitution	7
1.3.4	Federal Constitution	8
1.3.5	Rigid & Flexible Constitution	8
1.4	Indian Constitution – A living document	8
1.5	Sources of Indian Constitution	8
1.6	Important Committees of the Constituent Assembly	9
1.7	Indian Constitution – Unitary & Federal Features	9
1.7.1	Unitary Government	9
1.7.2	Federal Government	9
1.7.3	Unitary & Federal Government – A comparative study	10
1.7.4	Unitary Features of Indian Constitution	10
1.7.5	Federal Features of Indian Constitution	10
1.8	Presidential & Parliamentary forms of Government	11
1.8.1	Parliamentary Form of Government	11
1.8.2	Presidential Form of Government	12
1.8.3	India – Parliamentary Form of Government	12
2	Part II: Fundamental Rights	13
2.1.1	Fundamental Rights	13
2.2	Classification of Fundamental Rights as incorporated in the Constitution of India	13
2.3	Fundamental Rights & Judiciary	15
2.3.1	Judicial Review	15
2.4	Parliament's Power to Amend Constitution	16
2.4.1	Shankari Prasad Case (1951)	16
2.4.2	Sajjan Singh Case (1964)	16
2.4.3	Golak Nath Case (1967)	16
2.4.4	Kesavanand Bharti Case (1973)	16
2.4.5	Minerva Mills Case	16
2.5	Armed Forces and Fundamental Rights	17

3	Part III: Directive Principles of State Policy	17
3.1	Meaning and Nature	17
3.2	DPSP – Why is it non-justiciable?	17
3.3	List of DPSPs under Indian Constitution	17
3.4	Comparison Fundamental Rights & Directive Principles	18
3.5	Fundamental Rights & DPSP – Relative Importance	18
3.5.1	Champakam Dorairajan Case (1952)	19
3.5.2	Golaknath Case (1967)	19
3.5.3	Kesavananda Bharati Case (1973)	19
3.5.4	Minerva Mills Case (1980)	19
4	Part IV: Fundamental Duties	19
4.1	Swaran Singh Committee	19
4.2	List of Fundamental Duties	20
5	Part V: President of India	20
5.1	Executive Powers	20
5.2	Legislative Powers	21
5.3	Financial Powers	21
5.4	Judicial Powers	21
5.5	Military Power	22
5.6	Diplomatic Power	22
5.7	Emergency Powers	22
5.8	Veto Power over Legislations	22
5.8.1	Absolute Veto	22
5.8.2	Suspensive Veto	22
5.8.3	Pocket Veto	22
5.9	Ordinance Making Power of the President	22
6	Part VI: Prime Minister & Council of Ministers	23
6.1	Powers & Functions of the Prime Minister	23
6.1.1	Head of the Government	23
6.1.2	Leader of the Cabinet	23
6.1.3	Link between President & the Cabinet	23
6.1.4	Leader of the Parliament	23
6.2	Important Articles	24
6.2.1	Article 74	24

6.2.2	Article 75.....	24
7	Part VII: Governor.....	24
7.1	The Office of the Governor	24
7.2	Dual Role of the Governor	24
7.2.1	Constitutional Head of State	24
7.2.2	Governor as the Agent of Centre.....	25
7.3	Discretionary Powers of the Governor	25
7.3.1	Constitutional discretion	25
7.3.2	Situational discretion	25
8	Part VIII: Judiciary.....	26
8.1	Supreme Court of India.....	26
8.2	High Courts.....	26
8.3	Appointment of Supreme Court Judges	26
8.4	Appointment of High Court Judges.....	27
8.5	Controversy over appointment of Judges	27
8.6	Removal of Judges	27
8.7	Powers or Jurisdiction of Supreme Court	27
8.7.1	Article 129: Court of Records.....	27
8.7.2	Article 131: Original Jurisdiction.....	27
8.7.3	Appellate Jurisdiction	27
8.7.4	Article 136: Appeal by Special Leave	28
8.7.5	Article 143: Advisory Jurisdiction	28
8.7.6	Article 132: Writ Jurisdiction	28
8.7.7	Judicial Review.....	28
9	Part IX: Centre-State Relations.....	28
9.1	Legislative Relations.....	28
9.1.1	Union List	29
9.1.2	State List	29
9.1.3	Concurrent List.....	29
9.1.4	Residuary & Implied Subjects	29
9.1.5	When can Parliament legislate on subjects of State List?.....	29
9.1.6	Centre's control over State Legislation	30
9.2	Administrative Relations.....	30
9.3	Financial Relations	31

9.3.1	Scheme of Distribution of Sources of Revenue	31
9.3.2	Grants-in-Aid.....	31
9.3.3	Borrowing Powers of the Union and the States	31
9.3.4	Exemption of Union Property from State Taxation	31
9.3.5	Article 280: Finance Commission.....	31
9.3.6	Article 360: Financial Emergency.....	32
9.3.7	Comptroller & Auditor-General of India.....	32
10	Part X: Panchayati Raj.....	32
10.1	New Panchayati Raj System: 73rd Amendment and After	33
10.2	Salient features of the 73rd Constitutional Amendment Act	33
11	Miscellaneous	34

EduTap

1 Part I: Introduction

1.1 What is Polity?

- A particular form or system of government
- A state or other organized community or body
- **Examples:** Tyranny, Monarchy, Oligopoly, Democracy etc.

1.2 What is a constitution?

Whenever a civilized society decides to organize itself politically i.e., put in place an organized system of government, it **faces some vital questions**:

- What **system of government** it would have?
- What will be the **principal organs** of such a government and how and in what manner will they be constituted?
- What will the **main functions and powers** of such organs?
- What shall be the **status of the citizens** under such a Polity?
- What kind of **rights & privileges will the citizens** have?
- All such questions and many more of the similar nature are answered while preparing a comprehensive document that constitutes **the fundamental law of the land called the CONSTITUTION.**

1.3 Types/Classification of the Constitution

The constitutions may be classified into the following principal types:

1. Written or Un-written constitutions
2. Unitary or Federal constitutions
3. Flexible or rigid constitutions

1.3.1 Written Constitution

- **Features:** The provisions are **written** into a document that constitutes the supreme law of the land
- **Examples:** The constitution of the **United State of America** (1787) -is the world's first written constitution. **India** also has a written constitution.
- **Accomplishment:** Task for drafting the same was accomplished on **Nov.26, 1949** that involved an arduous task of writing the same over a period of **2 years, 11 months and 18 days.**

1.3.2 Un-written Constitution

1. **Features: Not embodied in a one single comprehensive document.** Instead, it is found **scattered and interspersed** in a number of sources
2. **Sources for Constitution:** Such sources can be **customs, traditions, conventions, common law cases,** etc.
3. **Examples:** Perhaps only the **Great Britain** has an unwritten constitution.
4. **Absence of Supreme Document:** No single document in England that can strictly be called an instruction manual to initiate one into a complete study of the constitutional law of that country.
5. **No distinction between the two species of law:** The one that is being made under the provisions of the Constitution and the other that takes the form of administrative fiats, executive decrees or the Presidential or Governor ordinances having the force of law.
6. **Tyranny of Government:** Affords ample room to a State for **unbridled power and authority** to employ any law as an unquestionable instrument of legitimate coercion against a common man.

1.3.3 Unitary Constitution

1. **Supreme Central Government:** Constitution that sets up **one Central government** in which all powers of the government are concentrated.
2. **Features:** Is nothing short of an **autocracy** or an equivalent of an **oligarchy**
3. **Concentration of Powers:** Only a **handful of the people sitting at the centre** call the shots and control the levers of the government in all spheres

4. **States- Subordinate to Centre:** States operate as **subordinates** to the central government and enjoy only those powers that are being delegated to them by the central government in a very limited sphere.
 - The unit governments or the **states function as mere cogs** in the wheels of the central government

1.3.4 Federal Constitution

- There is a **clear-cut division of powers** between the two units of the government -the central government and state governments.
- Unit governments in such a system are **not subordinate** to the central government instead, both **coordinate** with each other.

1.3.5 Rigid & Flexible Constitution

- A **rigid constitution** is one which requires a special, complex and more technical procedure for its amendment.
- A **flexible constitution** provides for a **simple** and an **uncomplicated** procedure for its **amendment**.

1.4 Indian Constitution – A living document

Features

1. It is a **unique blend of rigidity & flexibility**.
2. Balance between **preserving core values** and adapting them to **new circumstances**
3. The **flexible part** of the Indian constitution encompasses certain provisions that can be amended by the **simple majority procedure** as is followed for enacting ordinary laws.
4. At the same time, there are **other provisions** of the constitution that can only be amended after following a **special, more difficult and a technical procedure** such that they can be amended by having a **special majority** in both the houses of the union legislature as well as **ratification** by at least one half of the state legislative Assemblies.
5. An amendment of this kind is what is exactly called a **constitutional amendment** under the provisions of **Article-368** of the Indian constitution.

1.5 Sources of Indian Constitution

- **The Structural part of the Constitution** has been, to a large extent, derived from the **Government of India Act, 1935**.
- **The Philosophical part** (Fundamental Rights, DPSPs) from the **USA and Irish constitutions respectively**.
- **The Political part** (principles of the cabinet government, relationship between the executive and legislature), largely from the **British Constitution**.

Provisions	Sources
Parliamentary System	U.K.
Fundamental Rights	U.S.A.
The organization and powers of the Supreme Court	U.S.A.
Judicial review	U.S.A.
Post of Vice President	U.S.A.
Federal system	Canada, Govt. of India act 1935
The directive principles of state policy	Ireland
Emergency provisions	Germany, Govt of India Act 1935
Fundamental duties	Former Soviet Russia
Legislative procedure	U.K.
Parliamentary privileges	U.K.
Republic	France
Concurrent list	Australia

Constitution amendment	South Africa
Procedure established by law	Japan
Rule of law	U.K.

1.6 Important Committees of the Constituent Assembly

The committee on rules of procedure	The committee was to consist of a chairman and 15 other members.
The negotiating committee	It was to have 6 original members while 3 other members might be added later
The steering committee	Having a chairman and eleven other members
The business committee	It consisted of a chairman, K.M.Munishi and two members, N. Gopalaswami Ayyangar and Bishwanath Das
The advisory committee on minorities Fundamental Rights etc.	Consisted originally of fifty members
Fundamental rights sub-committee	Under the chairmanship of J.B. Kriplani and include thirteen other members
The minorities sub-committee	Under the chairmanship of W.C. Mookerjee and had twenty-five other members
Union procedure committee	It was to consist of twelve members with Shri J.L.Nehru as chairman.
The Union Constitution committee	Shri J.L. Nehru as chairman and consisting of fourteen other members.
The provincial constitution committee.	With Sardar Patel as chairman and consisting of 24 other members
The drafting committee	It consisted of a chairman, Dr. B.R. Ambedkar and six other member, N. Gopalswami Iyengar, Alladi Krishnaswami Ayyar, K.M. Munshi, Saiyid Mohd Sa'adulla, Madhava Rao and D.P. Khetan.
The linguistic provinces	It consists of three members, S.K. Dhar (chairman), Panna Lal and Jagat Narian
The expert committee on the financial provisions of the union constitution	Consisting of three members, N.R.Sarkar (chairman), V.S. Sundram and .V.Rangachari.

1.7 Indian Constitution – Unitary & Federal Features

1.7.1 Unitary Government

- All-important powers are concentrated in the hands of the Central Government.
- Political subdivisions may be created for administrative convenience.
- The central government is supreme, various political subdivisions, if at all in existence, are subordinate to it.
- Powers of the various subdivisions are not their original powers but are delegated to them by the Central government.
- **Single citizenship** and a uniform system of law prevails throughout the country.

1.7.2 Federal Government

- Constitution clearly defines the jurisdiction of the two sets of government, National and Regional.
- There is equality of status between the two.
- The Constitution is supreme.
- Two sets of laws corresponding to the two sets of governments, each legislating on subjects in their respective jurisdiction.

- While the central or the **federal government** is charged with the administration of affairs of **national importance**, matters of **regional or local importance** are given to the **governments of the units**.
- The government of the units should not be taken as subordinate governments rather both the federal and the provincial governments are **coordinate in relation to each other**.
- Envisages **double citizenship**.

1.7.3 Unitary & Federal Government – A comparative study

Unitary Features of Indian Constitution	Federal Features of Indian Constitution
A Written or Unwritten Constitution	A Written Constitution
A Flexible Constitution	A rigid Constitution
Fusion of Powers	Separation of Powers
Curtailed Judicial system (more or less)	Independent and impartial Judiciary
Single and integrated level of government	Two relatively autonomous levels of government

1.7.4 Unitary Features of Indian Constitution

- The **power of the Union to legislate** on the matters included in the **State List** under certain **specific circumstances**
- **Emergency provisions** which make the system virtually unitary during emergencies
- **Change in the name and boundaries of States** by the Parliament
- **Integrated Judicial System**
- **All India Services – I.A.S./I.F.S./I.P.S.**
- **Appointment of Governors** of States by the Union
- The **Election Commission**, as a central agency for all elections
- **Resolution of disputes** among States by the Union
- **Unequal representation** of States in the Council of States
- The provision to **reserve the bills passed by the State Legislature for the assent of the President**
- Flexible Constitution (to a certain extent)
- **Planned development** for the whole country by the Planning Commission (now NITI AAYOG)
- **Dependence** of states on the centre for **economic assistance and grants**
- **Residuary powers** vested in the Union

1.7.5 Federal Features of Indian Constitution

1. **Dual Polity:** The Constitution establishes a dual polity **consisting of the Union at the Centre** and the **states at the Periphery**.
 - Each is endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.
 - **The Union government deals** with the matters of national importance like defence, foreign affairs, currency and communication and so on.
 - **The state governments**, on the other hand, look after the matters of **regional and local importance** like public order, agriculture, health, local government and so on
2. **Written Constitution:** The Constitution is not only a written document but also the **longest Constitution of the world**.
 - Originally, it contained a Preamble, 395 Articles (divided into 22 Parts) and 8 Schedules. At present (2021), it consists of a Preamble, about 465 Articles (divided into 25 Parts) and 12 Schedules.
 - **Eighth Schedule of Indian Constitution comprises 22 languages.**
 - It specifies the structure, organization, powers and functions of both the Central and state governments and prescribes the limits within which they must operate. Thus, it avoids the misunderstandings and disagreements between the two.

3. **Division of Powers:** The Constitution divided the powers between the Centre and the states in terms of the Union List, State List and Concurrent List in the **Seventh Schedule**.
 - The **Union List** consists of 100 subjects (originally 97), the **State List** 61 subjects (originally 66) and the **Concurrent List** 52 subjects (originally 47).
 - Both the Centre and the states can make laws on the subjects of the concurrent list, but in case of a conflict, the Central law prevails.
 - **The residuary subjects** (i.e., which are not mentioned in any of the three lists) are given to the **Centre**
4. **Supremacy of the Constitution:** The Constitution is the supreme (or the highest) law of the land. The laws enacted by the Centre and the states must conform to its provisions.
 - Otherwise, they can be declared invalid by the Supreme Court or the High Court through their power of judicial review.
 - Thus, the organs of the government (legislative, executive and judicial) at both the levels must **operate within the jurisdiction prescribed by the Constitution**.
5. **Rigid Constitution:** The division of powers established by the Constitution as well as the supremacy of the Constitution can be maintained only if the method of its amendment is rigid.
 - Hence, the Constitution is rigid to the extent that those provisions which are concerned with the federal structure (i.e., Centre–state relations and judicial organisation) **can be amended only by the joint action of the Central and state governments**.
 - Such provisions require for their amendment a **special majority of the Parliament** and **also an approval of half of the state legislatures**.
6. **Independent Judiciary:** The Constitution establishes an independent judiciary headed by the Supreme Court for two purposes:
 - a) To protect the supremacy of the Constitution by exercising the power of judicial review; and
 - b) To settle the disputes between the Centre and the states or between the states.

The Constitution contains various measures like security of tenure to judges, fixed service conditions and so on to make the judiciary independent of the government.
7. **Bicameralism:** The Constitution provides for a bicameral legislature consisting of an Upper House (Rajya Sabha) and a Lower House (Lok Sabha).
 - **The Rajya Sabha** represents the states of Indian Federation, while **the Lok Sabha** represents the people of India as a whole.
 - The Rajya Sabha (even though a less powerful chamber) is required to maintain the federal equilibrium by protecting the interests of the states against the undue interference of the Centre

1.8 Presidential & Parliamentary forms of Government

Defined on the basis of nature between the legislative and executive organs of the government.

1.8.1 Parliamentary Form of Government

1. **Nominal and Real Head:** The head of the state holds a ceremonial position and is the nominal executive. For example, the President.
2. **In India:** The head of government is the Prime Minister who is the real executive. Article 75 of the Indian constitution provides for a Prime Minister to be appointed by the president.
 - According to **Article 74**, the Prime Minister headed council of ministers would aid and advise the President in the exercise of his functions.
3. **Executive is a Part of Legislature:** The Executive forms a part of the legislature. In India, the person should be a member of parliament to become a member of the executive.
 - However, the constitution provides that a person can be appointed as a minister for a period of not more than six consecutive months if he is not a member of the parliament, after which the person ceases to be a minister.

4. **Majority Party Rule:** The party which wins majority seats in the elections of the Lower House forms the government. In India, the President invites the leader of the majority party in Lok Sabha to form the government.
 - The President appoints the leader as the Prime Minister and the other ministers are appointed by the President on the advice of the Prime Minister. The President may invite a coalition of parties to form the government, in case, no party has got majority.
5. **Collective Responsibility:** The council of ministers are collectively responsible to the parliament. The lower house of parliament has an ability to dismiss a government by getting the no confidence motion passed in the house.
 - In India, the government survives till the time it enjoys support of the majority of members in the Lok Sabha. Thus, Lok Sabha is empowered to introduce no-confidence motion against the government.
6. **Prime Minister as the Centre of Power:** In India, the Prime Minister is the real executive. He is the head of the government, the council of ministers and the ruling government. Thus, he has to play a significant and important role in the working of the government.
7. **A Parliamentary Opposition:** 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.
8. **Independent Civil Service:** The civil servant's 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.
9. **Bicameral Legislature:** Most of the countries following parliamentary system, including India, have bicameral legislature.
 - The members of the Lower House of all these countries are elected by the people. The Lower House can be dissolved, in case, the term of the government is over or there is no scope of government formation due to lack of majority in house.
 - In India, the President can dissolve the Lok Sabha on recommendation of the Prime Minister.
10. **Secrecy:** The members of the executive in this system have to follow the principle of secrecy in matters such as proceedings, executive meetings, policymaking etc. In India, the ministers take oath of secrecy before entering their office.

1.8.2 Presidential Form of Government

- Based on the **doctrine of the separation of powers**
- The chief **executive (President) is the real head of the State**
- He/She is **elected by the people**, whether **directly or indirectly**, for a definite period
- Is **not accountable to the legislature**
- But one may be **removed by the process of impeachment**.
- **Examples: USA, Russia, Sri Lanka, Brazil, etc.**

1.8.3 India – Parliamentary Form of Government

India has opted for a **parliamentary system of Government**.

Features of Parliamentary Government in India

- **Article 74:** Presence of nominal (The President) and real executive (The PM and the council of ministers)
- **Article 75:** Ministers are collectively responsible to the Parliament in general and to the Lok Sabha in particular
- Majority party rule
- Ministers are members of both the legislature and the executive
- PM is the leader of the council of ministers, leader of the Parliament and leader of the party in power

- **Secrecy:** Ministers operate on the principle of secrecy, take oath of secrecy before entering their office

Separation of Power

- There should be **three separate organs** of the government with their separate sets of functions and powers.
- **The underlying principle:** In a government each organ of the government shall perform their own functions within the defined area of their activity and operation
- None should try to encroach upon the independence and jurisdiction of another.
- Presidential form of the government is exactly based on the **doctrine of separation of powers**.
- Parliamentary Govt. stands for the concentration of executive & legislative powers.
- But the concept of 'separation of powers' has duly been recognized by the apex court as one of the ingredients of the **'basic structure' of the constitution**
- It has been enunciated by the Apex court in some of the leading cases like that of Keshavananda Bharati and Minerva mills etc.

Who said what about Indian Constitution?

"A case of bargaining federalism" ----- Morris Jones.

"A case of cooperative federalism" ----Granville Austin

"A case of Quasi-federalism" -----K.C.Wheare

"A unitary state having subsidiary features of a federal system and not a federal state having subsidiary features of a unitary system." ----K.C.Wheare

"A federation with a strong centralizing tendency" ---Ivor Jennings

"A constitution establishing a strong centre" -----S.C.Kashyap

"India is a case- 'sui-generis'." -----Prof. C.H. Alexandrowicz

2 Part II: Fundamental Rights

2.1.1 Fundamental Rights

- Incorporated in the **fundamental law of the land**.
- Are **justiciable** and are **binding** on public authorities and are **available to all citizens alike**.
- Named so because they are **guaranteed and protected by the Constitution**, which is the fundamental law of the land.
- Are 'fundamental' also in the sense that they are most **essential for the all-round development** (material, intellectual, moral and spiritual) of the individuals.
- **Part III of the Constitution : Articles 12-35**, Inspired from the **Constitution of USA (Bill of Rights)**
- **Part III- The Magna Carta of Indian Constitution**

2.2 Classification of Fundamental Rights as incorporated in the Constitution of India

Category	Consists of
1. Right to equality (Articles 14 - 18)	(a) Equality before law and equal protection of laws (Article 14)
	(b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
	(c) Equality of opportunity in matters of public employment (Article 16)
	(d) Abolition of untouchability and prohibition of its practice (Article 17)
	(e) Abolition of titles except military and academic (Article 18)

2. Right to freedom (Articles 19 - 22)	(a) Protection of six rights in respect of: (i) speech and expression, (ii) assembly, (iii) association (iv) movement (v) residence and (vi) profession (Article 19).
	(b) Protection in respect of conviction for offences (Article 20).
	(c) Protection of life and personal liberty (Article 21).
	(d) Right to elementary education (Article 21 A). Added by 86th Amendment Act, 2002
	(e) protection against arrest and detention in certain cases (Article 22)
3. Right against exploitation (Articles 23 - 24)	(a) Prohibition of traffic in human beings and forced labor (Article 23).
	(b) Prohibition of employment of children in factories, etc. (Article 24).
4. Right to freedom of religion (Article 25 - 28)	(a) Freedom of conscience and free profession, practice and propagation of religion (Article 25).
	(b) Freedom to manage religious affairs (Article 26).
	(c) Freedom from payment of taxes for promotion of any religion (Article 27).
	(d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28).
5. Cultural and educational rights (Articles 29 - 30)	(a) Protection of language, script and culture of minorities (Article 29).
	(b) Right of minorities to establish and administer educational institutions (Article 30).
6. Right to constitutional remedies (Article 32)	Right to move the Supreme Court for the enforcement of fundamental rights including the writs of (i) Habeas corpus, (ii) Mandamus, (iii) Prohibition, (iv) Certiorari, and (v) Quo warranto (Article 32). These writs are discussed below.

Writs issued by Supreme Court and High courts (Articles 32 and 226):

Writ	Meaning	Description	Applicable	Not Applicable
Habeas-Corpus	To have the body of	It is an order issued to a person who has detained another person, to produce the body of the latter before it. Thus, this writ is a bulwark of individual liberty against arbitrary detention.	Both public authorities as well as private individuals.	Where the (a) Detention is lawful, (b) Proceeding is for contempt of a legislature or a court, (c) Detention is by a competent court, and (d) Detention is outside the jurisdiction of the court.
Mandamus	We command	Command issued asking a person/body to perform the official duties that he/it has failed or refused to perform.	A public official, any public body, a corporation, inferior court, a tribunal or government for the same purpose.	(a) Against a private individual or body; (b) To enforce departmental instruction that does not possess statutory force; (c) When the duty is discretionary and not mandatory; (d) To enforce a contractual obligation; (e) Against the president of India or the state governors; and

				(f) Against the chief justice of a high court acting in judicial capacity.
Prohibition	To forbid	It is issued to a lower court or tribunal to prevent it from exceeding its jurisdiction or usurping a jurisdiction that it does not possess. Thus, unlike mandamus that directs activity, the prohibition directs inactivity.	Judicial and quasi-judicial authorities.	Against administrative authorities, legislative bodies, and private individuals or bodies.
Certiorari	To be certified or to be informed	It is issued to a lower court or tribunal either to transfer a case pending with it to itself or to squash its order in a case. It is issued on the grounds of excess of jurisdiction or error of law. Thus, unlike prohibition, which is only preventive certiorari is both preventive as well as curative.	Judicial and quasi-judicial authorities and since Supreme Court's ruling in 1991, even against administrative authorities.	Against legislative bodies and private individuals or bodies.
Quo Warranto	– 'By what authority or warrant'	It is issued to enquire into the legality of claim of a person to a public office. Hence, it prevents illegal usurpation of public office by a person. Unlike the other four writs, this can be sought by any interested person and not necessarily by the aggrieved person.	Only in case of a substantive public office of a permanent character created by a statute or by the Constitution.	In case of ministerial office or private office.

2.3 Fundamental Rights & Judiciary

2.3.1 Judicial Review

Article 13 provides for the doctrine of judicial review

- Provision of Article 13:** All laws inconsistent with or in derogation of any of the FRs shall be void
 - **Supreme Court** can pronounce upon the constitutional validity of laws passed by the Legislature and the actions taken by the administrative authorities.
 - It acts as the guardian of the Constitution.
- Article 32:** Confers the right to remedies for the enforcement of the FRs of an aggrieved citizen
- Exemptions from Judicial Review:** Constitution itself **exempts some provisions from judicial review**, such as
 - Advice tendered by the Council of Ministers to the President or Governor,

- II. Privileges of members of Parliament and State Legislatures,
- III. Validity and conduct of proceedings in Parliament,
- IV. Delimitation of constituencies, etc.

4. **Can only Assess constitutionality, not the objectives:** In India the Supreme Court can pronounce upon the constitutionality of a law only if it is contrary to the letter of the Constitution; it cannot go into the objectives underlying the law or administrative action and declare it unconstitutional.
5. Similar power of judicial review is also conferred upon the State High Courts by virtue of **Article 226**.

2.4 Parliament's Power to Amend Constitution

2.4.1 Shankari Prasad Case (1951)

SC held that the Fundamental Rights can be amended by the Parliament as laid down under **Article 368**.

2.4.2 Sajjan Singh Case (1964)

SC reiterated that the word 'Law' in Article 13 does not include a law passed by Parliament by virtue of its constituent power taking away or abridging the Fundamental Rights.

2.4.3 Golak Nath Case (1967)

1. **Reversal of Earlier decisions:** Supreme Court reversed its earlier decisions and declared that Parliament, acting under Article 368, has no power to take away or abridge the Fundamental Rights.
2. **Stamp of Judicial Supremacy:** Was looked upon as a design of the Supreme Court to establish judicial supremacy.
3. **Parliament challenging the Supreme Court verdict:** Parliament passed the **24th amendment, 1971**, which empowered the Parliament to amend the Constitution including the Fundamental Rights in accordance with the procedure laid down in **Article 368**.
 - Ousted the jurisdiction of the Supreme Court to set aside any Constitutional amendment in future.
4. **Parliament passed the 25th amendment, 1971:** Authorized the Parliament to amend or modify Fundamental Rights for giving effect to Directive Principles of State Policy and for the attainment of the objectives set out in the Preamble of the Constitution.
 - **New article, viz. Article 31-C was incorporated into the Constitution:** It Provided that the laws relating to the implementation of the Directive Principles of State Policy as enunciated under **Article 39 (b) and (c)** are to be accorded **preference over Fundamental Rights** as enunciated under **Article 14 and 19**.

2.4.4 Kesavanand Bharti Case (1973)

- **Judgement of Supreme Court:** It held that Parliament is entitled to abridge any Fundamental Right or amend any provision of the Constitution, but the amending power does not extend to damaging or destroying any of the **basic features** of the Constitution
- **Introduction of Basic Structure:** Fundamental Rights are a part and parcel of the notion of basic features.
- Parliament passed the **42nd amendment, 1976: Provided** that all laws relating to the implementation of the Directive Principles of State Policy are to be accorded preference over all Fundamental Rights.

2.4.5 Minerva Mills Case

- The Supreme Court added a **new clause to the basic structure doctrine**, judicial review and **harmony between Fundamental Rights and Directive Principle of the State Policy**.
- In this case, the Court also held that the **Limited amending power of the Parliament is a part of the basic structure doctrine**.
- SC held that to abrogate the Fundamental Rights while purporting to give effect to the Directive Principles is to **destroy one of the basic features of the Constitution**.
- Validity of the substantive part of Article 31-C as originally enacted was left untouched.

2.5 Armed Forces and Fundamental Rights

Article 33: Empowers the Parliament to restrict or abrogate the fundamental rights of the members of armed forces, para-military forces, police forces, intelligence agencies and analogous forces.

- **Objective** is to ensure the proper discharge of their duties and the maintenance of discipline among them.

Having Understood the Fundamental Rights part, Now let us understand Directive Principles of state policy in detail.

3 Part III: Directive Principles of State Policy

- Idea **borrowed from the Irish Constitution** which had borrowed it from the Spanish Constitution.
- Contained in **Part IV of the Constitution: Article 36 to Article 51**
- Resemble the **Instrument of Instructions** enumerated in GOI Act, 1935
- Dr Ambedkar: These principles are the **novel features of the Indian constitution**

3.1 Meaning and Nature

- DPSPs are in the nature of **general directions or instructions** to the State.
- Embody the **objectives and ideals** which the Union and State Governments must bear in mind while formulating policy and making laws.
- Embody the concept of a **welfare state** and not a police state
- Constitute a **comprehensive economic, social and political programme** for a modern democratic state.
- Seek to establish **economic and social democracy** in the country
- Lay down a **code of conduct for the administrators** of India while they discharge their responsibilities
- Help the courts in examining and determining the **constitutional validity of a law**
- Guide the path which will lead to the achievement of the noble ideals as enshrined in the Preamble: **Justice - social, economic and political; Liberty - Equality and Fraternity.**
- Not legally enforceable by any court
- **Article 37 - These principles are fundamental to the governance of the country and it *shall* be the duty of the state to apply these principles in making laws.**

3.2 DPSP – Why is it non-justiciable?

- The country did not possess sufficient **financial resources** to implement them.
- The presence of **vast diversity and backwardness** in the country would stand in the way of their implementation.
- The newly born independent Indian State with its many preoccupations might be crushed under the burden unless it was free to decide the order, the time, the place and the mode of fulfilling them.

3.3 List of DPSPs under Indian Constitution

Article 36: Defines State as same as Article 12 unless the context otherwise defines.

Article 37: Application of the Principles contained in this part.

Article 38: It authorizes the state to secure a social order for the promotion of the welfare of people.

Article 39: Certain principles of policies to be followed by the state.

Article 39A: Equal justice and free legal aid.

Article 40: Organization of village panchayats.

Article 41: Right to work, to education and to public assistance in certain cases.

Article 42: Provision for just and humane conditions of work and maternity leaves.

Article 43: Living wage etc. for workers.

Article 43-A: Participation of workers in management of industries.

Article 43-B: Promotion of cooperative societies.

Article 44: Uniform civil code for the citizens.

Article 45: Provision for early childhood care and education to children below the age of six years.

Article 46: Promotion of education and economic interests of SC, ST, and other weaker sections.

Article 47: Duty of the state to raise the level of nutrition and the standard of living and to improve public health.

Article 48: Organization of agriculture and animal husbandry.

Article 48-A: Protection and improvement of environment and safeguarding of forests and wildlife.

Article 49: Protection of monuments and places and objects of national importance.

Article 50: Separation of judiciary from the executive.

Article 51: Promotion of international peace and security.

3.4 Comparison Fundamental Rights & Directive Principles

- **The Fundamental Rights seek to protect the individual from State encroachment;** the Directive Principles are aimed at the promotion of the general welfare of society.
- **The Fundamental Rights constitute limitations upon State action;** the Directive Principles are positive instructions to the Government to take steps to establish a just social, economic and political order.
- **The Fundamental Rights are justiciable;** the Directive Principles are not enforceable by the courts if the State has not implemented them.
- If there is no law enacted to carry out the policy stipulated in any of the Directives, no individual or the State, for that matter, can violate any existing law under the pretext of following a Directive. In other words, legislation is required before any Directive is implemented. The Fundamental Rights, on the other hand, are guaranteed by the Constitution

Fundamental Rights	Directive Principles
1. These are negative as they prohibit the State from doing certain things.	1. These are positive as they require the State to do certain things.
2. These are justiciable , that is, they are legally enforceable by the courts in case of their violation.	2. These are non-justifiable , that is, they are not legally enforceable by the courts for their violation.
3. They aim at establishing political democracy in the country.	3. They aim at establishing social and economic democracy in the country.
4. These have legal sanctions .	4. These have moral and political sanctions .
5. They promote the welfare of the individual . Hence, they are personal and individualistic .	5. They promote the welfare of the community . Hence, they are solitarian and socialistic .
6. They do not require any legislation for their implementation. They are automatically enforced .	6. They require legislation for their implementation. They are not automatically enforced .
7. The courts are bound to declare a law violative of any of the Fundamental Rights as unconstitutional and invalid .	7. The courts cannot declare a law violative of any of the Directive Principles as unconstitutional and invalid . However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.

3.5 Fundamental Rights & DPSP – Relative Importance

Initially, the Directive Principles were considered subordinate to the Fundamental Rights and the courts struck down a number of laws enacted to implement Directive Principles on the ground that they violated the Fundamental Rights.

3.5.1 Champakam Dorairajan Case (1952)

- The SC mandated that the chapter on Fundamental Rights is sacrosanct and the DPSPs have to conform to and run subsidiary to the chapter on FRs
- It also held that the FRs can be amended by the Parliament.

3.5.2 Golaknath Case (1967)

- The SC laid down that Parliament cannot take away or abridge any of the FRs which are sacrosanct in nature.
- It also said that the Fundamental Rights cannot be abridged/diluted to implement the Directives.
- The Parliament reacted by enacting the **24th and 25th Constitutional Amendments** which respectively authorized the Government to amend the Fundamental Rights (by amending Article 13 and 368) and to give preference to the Directives laid down under **Article 39 (b) and (c)** even if they infringe upon the Fundamental Rights as guaranteed by **Articles 14 ,19 and 31** (by inserting Article 31C)

3.5.3 Kesavananda Bharati Case (1973)

- The SC ruled that the Parliament can amend any and every part of the Constitution including FRs but **it cannot destroy the basic structure of the Constitution.**
- The Parliament now tried to enhance **the scope of Article 31-C** by bringing about the 42nd Constitutional Amendment, 1976 wherein a provision to give primacy to any or all the Directive Principles (and not just Article 39 (b) and (c)) and to deprive the courts of the right to look into such cases was made.

3.5.4 Minerva Mills Case (1980)

- The above attempt through 42nd amendment by parliament was thwarted by the Supreme Court
- It asserted that such **total exclusion of judicial review would offend the basic structure of the Constitution.** The widening of Article 31-C to include any or all of the Directives was struck down.
- **The SC held that the Indian Constitution is founded on the bedrock of the balance between the FRs and DPSPs.**
- On the whole, however, the conflict between these two features of the Constitution is meaningless. In fact, **the Fundamental Rights and Directive Principles are Complementary and Supplementary to each other.** The courts have increasingly based their judgments on a harmonious reading of Parts III and IV of the Constitution.

Having understood the topic of DPSP, now let us understand Fundamental duties which are complementary to the Fundamental rights.

4 Part IV: Fundamental Duties

Original Constitution contained only the fundamental rights and not the fundamental duties.

4.1 Swaran Singh Committee

- **Set up in 1976**, to make recommendations about the incorporation of fundamental duties in the constitution
- Recommended the inclusion of fundamental duties in the form of a separate chapter.
- The recommendations were accepted and enacted in the form of **42nd Constitutional Amendment Act** that inserted a new part, **Part-IV-A** to the constitution that carries a single article, Article 51A.
- Inspired by the Constitution of erstwhile **USSR.**
- **10 fundamental duties were added by adding Article 51A clause (a) to (j)**
- **One more fundamental duty added by the 86th Amendment Act, 2002 (Article 51A (k))**
 - “It shall be the duty of every citizen of India who is a Parent or Guardian to provide opportunities for education to his child or ward between the age of six and fourteen years.”

- Not enforceable in a court of law, but the courts can look at the conduct of a citizen concerned and refuse any remedy against the violation of his or her fundamental right.
- Parliament can also enforce them by suitable legislation
- Confined to citizens only and do not extend to foreigners

4.2 List of Fundamental Duties

Article 51A

- (a) to abide by the constitution and respect its ideals and institutions, the national flag and anthem
- (b) to cherish and follow the noble ideals that inspired the national freedom struggle
- (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 spirit of brotherhood amongst all people of India
- (f) to value and preserve the rich heritage of country's composite culture
- (g) to protect and preserve the natural environment
- (h) to develop scientific temper, humanism and spirit of enquiry and reform
- (i) to safeguard public property
- (j) to strive towards excellence in all spheres of individual and collective activity
- (k) to provide opportunities for education to his child between the age of 6 and 14 years

The Section of Fundamental Rights, DPSP's and Fundamental duties illustrated different points sensitizing an individual about the Constitutional rights and now let us move to the Executive Section of the Political System.

5 Part V: President of India

- At the head of the Union executive stands the President of India, who is the **First citizen of India**.
- **Mode of Election: President is Elected indirectly** in accordance with the system of proportional representation by means of single transferable vote
- **Electoral college for election of President consists of:**
 - Elected members of both houses of Parliament
 - Elected members of the legislative assemblies of states
 - Elected members of the legislative assemblies of the UTs of Delhi and Puducherry
- **Adjudicating Authority:** All disputes regarding election of President are enquired into by the Supreme Court whose decision is final
- **Criteria of calculation of vote:** To calculate the value of vote of an MLA, according to **84th Amendment Act, 2001, the population of 1971 census** is taken into account
- **Tenure of office:** Term of office is 5 years
- Eligible for **re-election** any number of times
- Enjoys **personal immunity** from legal liability for his official acts
- **Criminal Proceedings:** During his term of office, immune from any criminal proceedings, even in respect of his personal acts and cannot be arrested or imprisoned.
- **Civil proceedings:** They can be instituted against him after giving 2 months' notice (in respect of his personal acts, even during his term of office)
- **Departing from Presidency:** Can resign by addressing his resignation to the Vice President
 - Can be removed by impeachment for 'violating the Constitution' (**Article 61**)
 - **Constitution does not define the term 'violation of the Constitution'**

5.1 Executive Powers

- **Nominal Head:** Executive actions of the government taken formally in his name
- **Article 77:** Can make rules specifying the manner in which the orders made and executed in his name shall be authenticated

- **Article 75:** Appoints the PM and other ministers, hold office during his pleasure
- **Appointing Authority:** Appoints Attorney General, determines his remuneration, Appoints the CAG of India, Judges of the Supreme Court and the High Courts, the Governors of the States, the Chief Election Commissioner and other members of the Election Commission, the Chairperson and other members of the Finance Commission, etc.
- **Article 78:** Has a right to be informed of the affairs of the Union
- **Social Justice Mandate:** Can appoint a commission to investigate into the conditions of SCs, STs and other backward classes
 - Can appoint Commission on Official Language
 - Can appoint Special officer for Linguistic Minorities
- **Article 263:** Can appoint an **Inter State Council**
- **Control over UT:** Directly administers the UTs
- **Vigilance over scheduled areas:** Can declare any area as scheduled area, has power to administer such areas

5.2 Legislative Powers

- The President is integral part of the Parliament
- Summons or prorogues the Parliament and dissolves the Lower House.
- **Article 108:** Summons a joint sitting of both houses of Parliament in case of a deadlock between them.
- Addresses both Houses of Parliament assembled together, at the first session after each general election to the House of People and at the commencement of the first session of each year.
- Has the right to address either House or their joint sitting, at any time.
- Can send messages to the Houses of Parliament
- Decides on question of disqualification of MPs in consultation with the EC
- Lays the reports of CAG, Finance Commission, UPSC, etc. before the Parliament
- Prior recommendation is necessary for introduction of certain types of bills like money bill, etc.
- **Nominates 12 members to the Council of State** from among people having special knowledge/experience in literature, arts, science and social service
- Can nominate 2 members to the House of People from the Anglo-Indian community
- Can promulgate ordinances under **Article 123**.
- **Article 111:** A Bill will not become an Act of the Indian Parliament unless it receives the assent of the President

5.3 Financial Powers

- Causes to be laid before Parliament the annual budget and the supplementary budget, if any.
- No Money Bill can be introduced in Parliament without his prior recommendation.
- Constitutes a **Finance Commission** after every 5 years
- No demand for grant can be made except on his recommendation
- Can make advances out of the **Contingency Fund of India**
- Allocates to the States of Assam, West Bengal, Bihar and Orissa grants-in-aid in lieu of their shares in export duty on jute.

5.4 Judicial Powers

- **Appoints the Chief Justice** and the judges of SC and high courts
- Enjoys the power to grant pardon, reprieve, respite, or remission of punishment or suspend, remit or commute the sentence of any person convicted of any offence:
 - where the punishment or sentence is by a court martial
 - where the punishment or sentence is for an offence against a Union law
 - In all cases where the sentence is a sentence of death
- Can seek **advice from the Supreme Court** on any matter of law or fact

- The advice is not binding upon him.

5.5 Military Power

The **Supreme Command of the Defence Forces** is vested in the President of India.

5.6 Diplomatic Power

Represents India in international affairs and has the power to appoint Indian representatives to other countries and receives diplomatic envoys of other States.

5.7 Emergency Powers

- **National Emergency:** Can proclaim if satisfied that the security of India or any part thereof has been threatened by war, external aggression, or armed rebellion (**Article 352**).
- **Failure of Constitutional Machinery in a State:** Empowered to make a proclamation, when he is satisfied that the Government of a State cannot be carried on in accordance with the provisions of the Constitution (**Article 356**).
- **Financial Emergency:** If the President is satisfied that a situation has arisen whereby the financial stability or credit of India is threatened (**Article 360**).

5.8 Veto Power over Legislations

- When a bill is presented to the President, after its passage in both Houses, President can take any of the following 3 steps:
 - may declare his **assent** to the bill
 - may declare that he **withholds** his assent to the bill
 - may **return** the bill for reconsideration (except money bill)
- The President of India has Absolute veto, Suspensive veto and Pocket veto, which are discussed below.

5.8.1 Absolute Veto

- Legacy of the Government of India Act, 1935.
- Usually exercised in the following 2 cases:
 - In case of private members Bill; and
 - If, after the passage and before the assent by the President, the council of ministers resigns, the next cabinet can advise the President to use this veto to reject the Bill altogether.

5.8.2 Suspensive Veto

- **Exercised when the President returns a bill for reconsideration of Parliament**
- If the Parliament again passes the Bill (with or without the amendments,) **it is obligatory for the President to give his assent.**
- **Not available in the case of Money Bill (Article 110).**

5.8.3 Pocket Veto

- More scope than that available to his American counterpart.
- Timeframe fixed for the US President to return the Bill is only 10 days, **no time limit** is fixed for the **Indian President.**
- **Article 111** of the Indian Constitution provides that, “the President may, ‘**as soon as possible**’ after the presentation to him of a Bill for assent, return the Bill...”.
- President of India can exercise this type of veto by simply ignoring the Bill, for an ‘indefinite period’ of time.
- Giani Zail Singh, exercised pocket veto in the case of the **Indian Post Office (Amendment) Bill, 1986.**

5.9 Ordinance Making Power of the President

Article 123

- Most important legislative power of the President
- Devised to enable the executive to deal with a situation that may suddenly arise when the Parliament is not in session
- Not a parallel power of legislation
- **Can make ordinance only when**
 - he is satisfied those circumstances exist that render it necessary for him to take immediate action
 - both the Houses of Parliament are not in session or when either of the 2 Houses is not in session
- President's satisfaction can be questioned in a court of law on the ground of being malafide (**Cooper Case 1970**)
- Coextensive as regards all matters except duration, with the law-making powers of the Parliament
- Can be retrospective
- Can alter or amend tax law also
- Cannot be issued to amend the Constitution
- **D.C Wadhwa Case (1987)**: SC ruled that successive repromulgation of ordinances with the same text without any attempt to get the bills passed by the Assembly would amount to violation of the Constitution
- Must be laid before both the Houses when it reassembles
- Ceases to operate on the expiry of **6 weeks** from **the reassembly of Parliament**
- Can be withdrawn by the President at any time

The next important Position after president in the Constitution is Prime Minister and Council of Ministers. Let us now try to understand it in detail.

6 Part VI: Prime Minister & Council of Ministers

6.1 Powers & Functions of the Prime Minister

6.1.1 Head of the Government

- **President-Head of the State**, but the Prime Minister is the head of the Government.
- President acts only on the advice of the Council of ministers headed by the PM

6.1.2 Leader of the Cabinet

- Selects other ministers and distributes portfolios among them.
- Presides over the meetings of the Cabinet.
- Can demand a minister's resignation or have him dismissed by the President.
- Resignation of PM involves the resignation of all ministers

6.1.3 Link between President & the Cabinet

- **Article 78**: PM acts as a link between the President and the Council of Ministers.
- Communicates to the President all decisions of the Council of Ministers
- Furnishes such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for
- If the president so requires, he submits for the consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

6.1.4 Leader of the Parliament

- PM is the leader of the Parliament.
- Determines the dates of its meetings, as also its programmes for the session.
- Decides when the House is to be prorogued or dissolved.
- Is the chief spokesman of the Government in the House.
- Keeps the Parliament informed about the Government's intentions.

- Makes announcement of principal government policies and answers questions.

6.2 Important Articles

6.2.1 Article 74

- There shall be a council of ministers with the PM at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.
- This advice shall not be inquired into in any court (Relation of Council of Ministers and President is confidential)

6.2.2 Article 75

- The PM shall be appointed by the President.
- Other ministers shall be appointed by the President on the advice of the PM.
- The total number of ministers, including the PM, in the council shall not exceed 15% of the total strength of the Lok Sabha (Added by 91st Constitutional Amendment Act, 2003).
- MP disqualified on ground of defection shall also be disqualified to be appointed as a minister (Added by 91st Constitutional Amendment Act, 2003).
- Ministers shall hold office during the pleasure of the President (which actually is the pleasure of the PM). This implies individual responsibility.
- Collective responsibility of the council of ministers to the Lok Sabha.
- Minister who is not a member of either house of Parliament for any period of 6 consecutive months shall cease to be a minister.
- Salaries and allowances of ministers to be determined by the Parliament.

After Understanding the power structure at the union level, now let us try to understand the parallel power structure at the State level.

7 Part VII: Governor

7.1 The Office of the Governor

- **7th Constitutional Amendment Act:** Appointment of the same person as a governor for 2 or more states
- **Mode of Appointing Governor:** Neither directly elected nor indirectly by a special constituted electoral college (as in the case of the President)
 - Appointed by **President by warrant under his hand and seal**
- **Tenure:** The term of office is **normally for five years**. One can hold office beyond his term of 5 years until his successor assumes charge
 - Can be terminated earlier either by **dismissal or through resignation**
 - **Constitution does not lay down any grounds** upon which a governor may be removed
- **Restrictions:** Debarred from holding any other office of profit or being a member of the Union Parliament or any state legislature.
- **Eligibility for appointment:**
 - Citizen of India
 - Completed 35 years of age

7.2 Dual Role of the Governor

7.2.1 Constitutional Head of State

- Ceremonial head of the State
- **The Constitution** provides for a **Council of Ministers with a CM at the head** to aid and advise the Governor in the exercise of his functions **except when he can act at his own discretion**.

- The courts of the land do not have the power to question **the action of the Governor taken in his discretion** and the decision of the Governor shall be final.
- All the executive powers are exercised by the Cabinet in the name of the Governor
- Has executive, legislative, financial as well as judicial powers

7.2.2 Governor as the Agent of Centre

- **Constitutional link** between **the Centre and the States**.
- Ensures that the directives issued by the Centre to the States are carried out
- Ensures that the government of the state is carried on in accordance with the provisions of the Constitution.
- It is on the recommendations of the Governor that the President usually issues a proclamation of emergency in the State on account of the constitutional breakdown
- **Under President's rule** the Governor is the Chief representative of the President in the State.

7.3 Discretionary Powers of the Governor

The Governor's discretion may be underlined into **two parts**:

7.3.1 Constitutional discretion

- **Reservation of bill** for the consideration of the President
- **Recommendation** for the imposition of President's rule in the state
- Exercising his functions as the **administrator of an adjoining UT**
- **Seeking information from the CM** with regard to the administrative and legislative matters of the state
- Determining the amount payable by the government of Assam, Meghalaya, Tripura and Mizoram to an **autonomous tribal district council as royalty**

7.3.2 Situational discretion

Framers of Constitution believed that the situational discretion **would be exercised in extra ordinary circumstances** and under the pressing needs of the political circumstances existing in the State. **The occasions where the Governor's situational discretion may be used are as follows:**

1. The Appointment of a CM:

According to the Sarkaria Commission if there is no single party having an absolute majority in the assembly, **the Governor should select a CM from among the following parties or groups of parties** in the following order of preference:

- I. An alliance of parties that was formed prior to the elections.
- II. The largest single party staking a claim to form the government with the support of others, including 'independents'
- III. **A post-electoral coalition of parties**, with all the partners in the coalition joining government.
- IV. **A post-electoral alliance of parties**, with some of the parties in the alliance forming the Government and the remaining parties, including 'independents' supporting the government from outside.

2. Dismissal of a Ministry:

- If the Governor has reasons to believe that the Ministry is engaged in activities, which are likely to endanger national security or solidarity.
- If the Ministry has lost the confidence of the legislature and the Ministry wants to continue in office.
- **According to the Sarkaria Commission**, the Governor **cannot** dismiss the Council of Ministers so long as they continue to command a majority in the Legislative Assembly.
 - Conversely, he is bound to dismiss them, if they lose the majority but do not resign.

- **When the Legislative Assembly is in session**, the question of majority should be tested on the **floor of the House**.

3. **Dissolution of the Legislative Assembly:**

- Not a normal practice to dissolve a legislature before it has completed its prescribed period of life.
- The Governors have exercised their marginal discretion differently in refusing/granting the dissolution of the Assemblies of the States.

4. **Some other occasions:**

- *Asking information from the CM* relating to legislative and administrative matters.
- *Asking the CM to submit for the consideration of the Council of Ministers* any matter on which a decision has been taken by a Minister but which has not been considered by the Council.
- *Refusing to give assent to a Bill* passed by the Legislature and sending it back for re-consideration.
- *Reserving a bill passed by the State Legislature* for the assent of the President.
- **Seeking instructions from the President before promulgating an ordinance** dealing with certain matters.
- Advising the President for the proclamation of an emergency.
- In the case of the Governor of Assam, certain administrative matters connected with the tribal areas and settling disputes between the government of Assam and the District Council with respect to mining royalties.

Likewise, Governor of Nagaland, Sikkim, Arunachal Pradesh and Mizoram, Meghalaya and Tripura have been entrusted certain specific functions to be exercised by them in their discretion.

Having discussed the executive wing of the government, let us now understand the Judiciary wing of the government.

8 **Part VIII: Judiciary**

- Principle role of judiciary - to **protect the rule of law and ensure supremacy of law**.
- Indian Constitution is based on a delicate principle of **limited separation of powers and checks and balances**.
- India has a single system of courts, adopted from the **Government of India Act 1935** for enforcement of both central and state laws.
- **Parliament** is authorized to regulate the **organization, procedures, etc. of the judiciary**.

8.1 **Supreme Court of India**

- Inaugurated in 1950.
- Succeeded the Federal Court of India established under Government of India Act, 1935.
- Replaced the British Privy Council as the highest court of appeal.
- Articles **124 to 147 in Part V deal with Supreme Court**.

8.2 **High Courts**

- **Institution of High Court originated in India in 1862** when High Courts were established in Calcutta, Bombay and Madras.
- **Articles 214 to 231 in Part VI** deal with High Courts.
- **7th Amendment Act, 1956** - Parliament authorized to establish a common High Court for 2 or more states and a Union Territories.

8.3 **Appointment of Supreme Court Judges**

- Chief Justice of India is appointed by President in **consultation** with such judges of Supreme Court and High Courts as he deems necessary. (Focus on the word Consultation because it has been a bone

of contention for appointment between the government and Judiciary which is discussed in the subsequent section)

- Other judges are appointed by President after consultation with Chief Justice of India and such other judges of the Supreme Court and High Courts as he deems necessary.
- **No minimum age** has been prescribed by the **Constitution** for the **appointment of judges**.
- **Constitution has also not fixed the tenure of a judge of the Supreme Court**. However, it states that a judge of Supreme Court holds office till the age of 65 years (62 in case of High Court), can resign by writing to President and can be removed by President on recommendation of Parliament.

8.4 Appointment of High Court Judges

- Chief Justice of the High Court is appointed by President after **consultation** with the Chief Justice of India and the Governor of the state concerned.
- For other judges, the Chief Justice of the concerned high court is also consulted.

8.5 Controversy over appointment of Judges

- **First Judges Case 1982**: Supreme Court held that **consultation does not mean concurrence**.
- **Second Judges Case 1993**: Reversed its earlier ruling, said that consultation means concurrence and that the Chief Justice of India would tender advice after consulting 2 of his senior most colleagues.
- **Third Judges Case 1998**: **The Chief Justice of India** should consult a collegium of 4 senior most judges of the Supreme Court for **appointment of a judge to Supreme Court** and a collegium of 2 senior most judges of Supreme Court for appointment of judge of High Court.

8.6 Removal of Judges

- Same procedure for the removal of Supreme Court as well as High Court judge
- **Judges Enquiry Act 1968** regulates the procedure: They Can be removed by an order of President **on grounds** of removal- proved misbehavior or incapacity
- **The removal motion** must be passed **by special majority** i.e., a majority of the total membership of the House and not less than 2/3rd of the members of the House present and voting
- An impeachment motion for the removal of a judge does not lapse on the dissolution of the Lok Sabha
- No judge of SC or HC has been impeached so far.

8.7 Powers or Jurisdiction of Supreme Court

8.7.1 Article 129: Court of Records

Supreme Court to be a court of record, which has **the power to punish for contempt of its own**.

8.7.2 Article 131: Original Jurisdiction

Original jurisdiction covers all disputes:

- Between the Government of India (GoI) and one or more States.
- Between the GoI and any State or States on one side and one or more States on the other.
- Between two or more States.

8.7.3 Appellate Jurisdiction

- The Supreme Court is **the highest court of appeal** from all Courts in the territory of India.
- The Appellate jurisdiction divided under **three heads**:
 - I. Cases involving interpretation of the Constitution
 - II. Civil Cases, irrespective of any constitutional question; and
 - III. Criminal Cases irrespective of any constitutional question.
- An appeal lies to the Supreme Court from any **judgment, decree or final order** in a civil proceeding of a High Court in **two classes of cases** -
 - Where the case involves a **substantial question of law** as to the interpretation of the Constitution (**Article 132**).

- In case where no constitutional question is involved, **appeal shall lie if the High Court certifies that the following conditions are satisfied -**
 - That the case involves a substantial question of law.
 - That in the opinion of the High Court the said question should be decided by the Supreme Court (**Article 133 (1)**)
- **Article 134** provides for an appeal to the Supreme Court from the judgment, final order or sentence in a criminal proceeding of a High Court, as of right, in **two specified classes of cases -**
 - Where the High Court has in an appeal reversed an order of acquittal of an accused person and sentenced him to death.
 - Where the High Court has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused and sentenced him to death.
- Besides these two classes of cases, an appeal may lie to the Supreme Court in any criminal case if the High Court certifies that the case is a fit one for appeal to the Supreme Court.

8.7.4 Article 136: Appeal by Special Leave

Supreme Court may grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

8.7.5 Article 143: Advisory Jurisdiction

President can seek the opinion of the Supreme Court in **2 categories of matters:**

- On any question of law or fact of public importance
- On any dispute arising out of any pre-Constitution treaty, agreement, etc.

The opinion of the Supreme Court is not binding on the President.

8.7.6 Article 132: Writ Jurisdiction

- The Supreme Court is the guardian of the liberties and Fundamental Rights of the citizens of India.
- Can issue writs in the nature of **Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo Warranto** and the like for the enforcement of fundamental rights.

8.7.7 Judicial Review

- **The Supreme Court of India** has been empowered to **review laws** passed by the legislature and declare **them ultra vires** or **unconstitutional** if they contravene any provision of the Constitution.
- It means that the SC can ensure that *the laws passed by the Parliament and State legislatures* and the *orders issued by the Union as well as State executives* do not contravene the provisions of the Constitution.
- The **term 'judicial review'** does not find mention anywhere in the Constitution.

Having developed an insight into the Executive and judiciary wing of the government, now let us understand the Legislative wing of the government.

9 Part IX: Centre-State Relations

9.1 Legislative Relations

- **Government of India Act, 1935:** Legislative powers divided into three lists; Federal, Provincial and Concurrent
- **Residue powers** were given to the Governor-General to be assigned by him either to the Central Government or the provinces.
- **Constitution divides the legislative powers between the Centre and States**
- **Articles 245 to 255** in **Part XI** deal with legislative relations and some other articles also deal with the same subject.
- There is **3-fold distribution of legislative subjects**, which is mentioned in **Seventh Schedule of the Constitution**.

- List I- **Union List** (100 subjects, originally 97)
- List II- **State List** (61 subjects, originally 66)
- List III- **Concurrent List** (52 subjects, originally 47)
- **42nd Amendment Act, 1976**: Transferred 5 subjects from State list to the Concurrent list.
- **The concept of concurrent list has been borrowed from the Constitution of Australia**
- The Residuary power of legislation is given to the Parliament
- This system is similar to the system that is there in the **Constitution of Canada**.

9.1.1 Union List

- **Parliament** has **exclusive powers** of legislation with regard to the items mentioned in Union list.
- The selection of these items is made on the basis of interest to the Union and where **uniformity** of legislation throughout the union is **essential**.

9.1.2 State List

- In ordinary circumstances, the **State legislature** has the **exclusive power of legislation** over state list.
- The selection of these items is made on the basis of **local interest** like law and order, health, agriculture etc.
- Envisages the possibility of **diversity of treatment** with respect to different items in the different States of the Union.

9.1.3 Concurrent List

- Items with respect to which **uniformity** of legislation throughout the Union is **desirable but not essential**.
- Placed under the **jurisdiction of both the Union and the States**.
- The Parliament of India and the State legislatures have concurrent powers of legislation over the items included in this list.
- **Once Parliament enacts a law** on an item in this list, **parliamentary law shall prevail** over any state law on the item.
- **One exception**: A law made by the state legislature on any item in the Concurrent List shall prevail over an earlier law of Parliament on the same subject, if the State law was reserved for the consideration of the President and received his assent.

9.1.4 Residuary & Implied Subjects

- If an **item or subject does not find mention anywhere in the above lists**, it is called a **residuary subject**.
- **Article 248** -Residuary powers are **vested in the Union** under the Constitution of India.
- On this only the **Parliament is empowered to legislate**.
- An item whose presence or inclusion in any of the three lists is implied or can be deduced implicitly is called an **implied subject**.
- For example, telecasting as separate & an explicit subject although, is not mentioned anywhere in any of the three lists, but is implied by another specific entry in the Union list under the subject of **"broadcasting."**

9.1.5 When can Parliament legislate on subjects of State List?

1. Article 249

- If the **Rajya Sabha** declares by a resolution supported by **not less than two-thirds of the members present and voting** that it is **necessary or expedient in the national interest** that Parliament should make laws with respect to any matter enumerated in the State List
- Becomes lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter
- Such a **resolution remains in force** for such a period, **but not exceeding one year**

- The Rajya Sabha can **extend the period** of such a resolution for a **further period of one year** any number of times
- State legislature can also make laws on the same matter, in case of inconsistency, parliamentary law will prevail.

2. Article 250

- **Parliament is empowered** to make laws on **any item included in the State List** for the whole or any part of India while a **proclamation of National Emergency** is in operation.
- **The maximum period** for which such a law can be in force is the period for **which emergency lasts and six months beyond that period**.
- State legislature can also make laws on the same matter, in case of inconsistency, parliamentary law will prevail.

3. Article 252

- **If two or more States request the Central Government** to legislate on a particular subject mentioned in the State List, in so far as their State is concerned, the Central Parliament can legislate on these subjects as well. **Ex: Environment protection act 1986.**
- If any such law is to be **amended or repealed**, it can be **done only by Parliament alone** but the initiative for it rests with the States.
- **State legislature ceases to have the power to make a law w.r.t. that matter**

4. Article 253

- Parliament has power to make any law for the whole or any part of India for implementing any treaty, agreement or convention with any other country or countries or any decision **made at any international conference**, association, or other body.

5. Articles 356 and 357

- **Under President's Rule**, he might declare that the powers of the Legislature of that State would be exercisable by or under the authority of Parliament.
- A law made so by the Parliament shall remain operative even after President's rule, **but can be repealed**, reenacted, or altered by the state legislature **after President Rule ceases to operate**.
- The effect of Article 357 would be that the legislature of the State in question would stand dissolved or suspended and the law-making power would rest in Parliament during the period the proclamation of emergency is in force.

9.1.6 Centre's control over State Legislation

- **Article 200:** Governor can reserve certain types of Bills of the State Legislature for the consideration and assent of the President.
- Bills on certain matters can be introduced in state legislature only with the previous sanction of the President.
- President can direct the states to reserve **money bills and other financial bills** passed by the state legislature for his consideration **during a financial emergency**

9.2 Administrative Relations

- **Articles 256 to 263 in Part XI** and some other articles also deal with such relations.
- **Executive power is co-extensive with the legislative power.**
- **Authority of the Union Executive** extends over all those matters on which the Parliament is competent to legislate.
- Similarly, **the authority of the State Executive** extends to coincide with the legislative competence of the state legislature.
- Both the Union and the States were to have their own administrative staff with full control over them.
- In respect of matter in the **Concurrent list**, **the executive power rests with the states**
- **Exception:** Unless a constitutional provision or a parliamentary law specifically confers it on the Centre.

9.3 Financial Relations

9.3.1 Scheme of Distribution of Sources of Revenue

Articles **268 to 293 in Part XII** and other provisions to deal with this aspect. The Union List contains **15 items of taxation**. These taxes fall under **five categories** –

- 1. Taxes levied by the Union but collected and appropriated by the States**
Examples: Stamp duties and duties of excise on medicinal and toilet preparations, etc.
 - 2. Taxes levied and collected by the center but assigned to the States**
Examples: Succession and estate duties, terminal taxes on passengers and goods carried by railway, sea or air, taxes on railway fares and freight, etc.
 - 3. Taxes levied and collected by the Centre and compulsorily distributed between the Union and the States**
Examples: Taxes on income other than agriculture.
 - 4. Taxes levied and collected by the Centre and may be distributed between the Union and the States, if Parliament by law so provides**
Examples: Union excise duties, excise on medical and toilet preparations.
 - 5. Taxes levied and collected and retained by the Centre**
Examples: Customs, corporation tax, and surcharge on income-tax.
- **The State List contains 20 items**, viz., land revenue, liquor and opium excise, stamps, agriculture income, sales and purchase taxes, taxes on land and buildings, terminal taxes on passengers and goods, taxes on consumption and sale of electricity, taxes on vehicles, animals and books, amusements, betting and gambling profession, trade, and callings, etc.
 - Every State is entitled to levy, collect, and appropriate these taxes.
 - **Residuary power** of taxation is **vested in the Centre**.

9.3.2 Grants-in-Aid

- **Article 275 (Statutory Grants)** empowers Parliament to give financial assistance to the States in need of such assistance.
 - The grants are based upon the recommendations of the Finance Commission.
- **Article 282 (Discretionary Grants)** empowers the Centre to make public purpose grants to the States and to any institution within the States.
 - On the recommendations of the Planning Commission (Now NITI AAYOG)

9.3.3 Borrowing Powers of the Union and the States

- **Article 292** authorizes the Union Government to borrow on the **security of the Consolidated Fund of India**. While doing so no territorial limitations have been imposed.
- States can also borrow upon the security of their Consolidated Funds; **Article 293** provides that they could do so **only within the territory of India**.

9.3.4 Exemption of Union Property from State Taxation

- **Article 285** exempts the property of the Union from all taxes imposed by a State or by any authority within a State unless Parliament by law provides otherwise.
- On the basis of the principle of reciprocal immunity, **Article 289** exempts property and income of a State from Union taxation.
- This does not prevent the Union from imposing any tax in respect of a trade or business of any kind carried on by or on behalf of the Government of a State.

9.3.5 Article 280: Finance Commission

- Provides that **the President** shall within two years from the commencement of the Constitution and thereafter at the expiration of every fifth year or earlier as he considers necessary, by order constitute a Finance Commission

- It is the **duty of the Commission** to make **recommendations to the President** as to:
 - **The distribution between the Union and the States of the net proceeds of taxes** and the allocation between the States of the respective shares of the proceeds.
 - The principles which should **govern the grants-in-aid** to the states by the Centre out of the Consolidated Fund of India.
 - **The measures needed to augment the Consolidated Fund of a state** to supplement the resources of Panchayats and the municipalities on the basis of recommendations of the State Finance Commission
 - Any other matter referred to the Commission by the President in the interests of sound finance.

9.3.6 Article 360: Financial Emergency

- President can suspend the provisions relating to the division of the taxes between the Union and the State and the grants-in-aid to the States.
- The executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the direction or any other directions which the President may deem necessary for purpose.

9.3.7 Comptroller & Auditor-General of India

- Is responsible for the maintenance of audit of Union and State accounts
- He can direct the State Governments to keep their records in a particular manner and these are duty bound to obey his instructions.

Having understood the functioning of all the wings of the government, let us now try to understand the decentralization measures taken the government to enhance democracy at the grassroot level.

10 Part X: Panchayati Raj

- **Strong and vibrant local governments ensure** active participation, purposeful accountability, meaningful economic development and achievement of social justice.
- Decentralization is also a **political and administrative imperative**. Self-governing village communities existed in India from the earliest times in the form of '**sabhas**' (**village assemblies**). In the course of time, these bodies took the shape of Panchayats.
- In modern times, elected local government bodies have been created after **1882**.
- **Father of local self-government in India – Lord Ripon**: In 1882, Lord Ripon issued a resolution hailed as the **Magna Carta** of local self-government.
- **Government of India Act, 1919** - Village panchayats were established in a number of provinces. Trend continued after the **Government of India Act 1935**.
- Nearly one-third of the villages of India had **traditional Panchayats** the time of independence. When the Constitution was prepared, the subject of local government was **assigned to the States**. It was also mentioned in the **DPSPs** under **Article 40 (one of the Gandhian Principles)**.
- After independence, **the story of Panchayati Raj** in India has been a story of ups and downs. Has passed through **four distinct phases** in its short span of life.
 - **The phase of ascendancy** (1959-1964),
 - **The phase of stagnation** (1965-1969),
 - **The phase of decline** (1969-1983) and
 - **The phase of revival** (1983 onwards).
- In 1952, **Programme of Community Development** was started for economic planning and social reconstruction. **Block Advisory Committees** were established, which were later redesigned as the **Block Development Committees**.
- In January 1957, **Balwant Rai Mehta Committee** was appointed to review the working of the Community Development Programme. Report was submitted in 1957.

Committees associated with Panchayati Raj Institutions in India

1. Balwant Rai Mehta Committee
2. Ashok Mehta Committee
3. Hanumanth Rao Committee
4. GVK Rao Committee
5. LM Singhvi Committee

10.1 New Panchayati Raj System: 73rd Amendment and After

- **Historical background:** Unsuccessful attempts by the **Rajiv Gandhi government** and **V.P Singh government** to bring in constitutional amendment.
- **P.V. Narsimha Rao** Government introduced the **Constitutional Amendment Bill in 1991**, which was passed as the **73rd Constitutional Amendment Act, 1992**.
- Act came into force w.e.f **April. 24, 1993** and mandated all states of the Indian union, of course, to the exclusion of **J & K, Mizoram, Meghalaya and Nagaland as well as some scheduled areas of other states**, that they should either make new laws or make suitable amendments to their existing laws to ensure their being in consonance with the Act.

10.2 Salient features of the 73rd Constitutional Amendment Act

- A new **Part IX** consisting of 16 Articles (Article 243 to 243 O) and a new schedule -the **Eleventh Schedule** added to the Constitution.
- **Article 243A: Gram Sabha** may exercise such powers and perform such functions at the village level as the legislature of a State may by law provide. Gram Sabha is envisaged as the **foundation of the PR System**.
 - **Gram Sabha** is a **body consisting of persons registered in the electoral rolls of a village** comprised within the area of a Panchayat at the village level.
- **Article 243B:** It provides that in **every state** there shall be constituted **Panchayats** at the village, intermediate and district levels.
 - **Small states** having a population **not exceeding 20 lakhs** have been given an option **not to constitute the Panchayats at the intermediate level**.
- **Article 243C:** Legislature of a State may by law make provisions with respect to the composition of Panchayats. However, **all the members** at the village, intermediate and district levels shall be **elected directly**.
 - The **chairperson** of panchayats at the **intermediate and district levels** shall be **elected indirectly**.
 - Chairperson of the panchayat at the village level shall be elected in such a manner as the state legislature determines.
- **Article 243D: Reservation of seats for SCs and STs** in every panchayat in **proportion of their population to the total population** in the panchayat area
 - **Reservation of not less than one third** of the total number of seats for **women**
 - **Not less than one third** of the **total number of offices of chairpersons** in the panchayats at each level shall be reserved for women.
- **Panchayat bodies** to have an assured **duration of 5 years**, with **elections mandatory before the expiration of 5 years** or in case of **dissolution**, before the expiry of a period of **6 months** from the date of dissolution.
- **State Election Commission** for the **superintendence, direction and control** of the preparation of electoral rolls and conduct of all elections to the panchayats.
- **State Election Commissioner** to be appointed by the **Governor**.
- **Finances:** The state legislature may (a) authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees (b) assign to panchayat taxes, duties, tolls and fees levied by the state government; (c) provide for making grants in aid to the panchayats from the consolidated fund of the state; (d) provide for constitution of funds for crediting all moneys of the panchayats

- **Finance Commission:** The governor of a state shall, after every 5 years, constitute a finance commission to **review the financial position of panchayats**.
- **Disqualifications for Membership:** A person shall be disqualified for being chosen as or for being a member of Panchayats:
 - If he is so disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned.
 - If he is so disqualified by or under any law made by the legislature of the State.
 - But no person shall be disqualified on the ground that he is less than 25 years of age, under clause (a), if **he has attained the age of 21 years**.
- **Eleventh schedule**
 - It contains **29 functional items** placed within the purview of the panchayats
 - **Some items are** agriculture, land improvement, minor irrigation, water management, rural housing, drinking water, social forestry, women and child development, etc.

Compulsory Provisions of the Act

- Organization of Gram Sabha
- Establishment of panchayats at the 3 levels
- Direct elections to all seats at the 3 levels
- Indirect elections to the post of chairperson at the intermediate and district level
- 21 years to be minimum age for contesting elections
- Reservations of seats for SCs, STs and women
- Fix tenure of 5 years and regular elections
- Establishment of State Election Commission
- Establishment of State Finance Commission

Voluntary Provisions of the Act

- Giving representation to the members of Parliament (both Houses) and the state legislature (both Houses) in the Panchayats at the different levels falling within their constituencies
- Providing reservation of seats for backward classes in panchayats at any level (OBC reservation)
- Granting power and authority to the panchayats to enable them to function as institutions of self-government
- Devolution of powers and responsibilities to prepare plans for economic development and social justice; to perform some or all of the 29 functions listed in the XIth Schedule
- Granting financial powers to the panchayats

11 Miscellaneous

Change in political values over time

India has produced world class politicians in the form of Mahatma Gandhi, Jawaharlal Nehru, Lal Bahadur Shastri, Sardar Vallabhbhai Patel, etc. They were all freedom fighters and did the public service of the highest quality in selfless manner. These leaders held values like probity, fairness, equity, etc. Over the period of time these political values have been diluting to low moral standards. The analysis of their political values is of prime importance.

Political values can be defined as set of beliefs, principles carried by an individual or group which guides their general behaviour/attitude toward political 'objects' (leaders, events, ideologies), they are the mental construct and are not tied to any object.

- Since political values have evaluative element in it, therefore they help individual to arrive at certain decision.

- They believed in ideas like idea of nation building, Fraternity, Equality, Fraternity, Unity, Diversity of Nation, etc.
- To achieve these ideas they believed in values integrity, non-partisanship, probity, accountability, fairness, etc.

Change In political Values over time

1. **Dilution of secular value:** There was no presence of communalism in first two decades post-independence but since 1970s Communalism has taken the center stage and disrupted the fabric of society. Ex Babri-Masjid issue had created tensions in the society until being resolved recently.
2. **Dilution of democratic Values:** In the years succeeding independence Intra party elections were held for the party posts, but over the years they have been taken up by family members. Ex: Top post of Congress is held by Family members.
3. **Dilution of Integrity:** Erstwhile politicians firmly believed in transparency, were led by responsiveness. Before anyone asking for details, politicians themselves came forward with details. But over time Election commission has made it mandatory to disclose their personal details before the elections.
-Example: **Lal Bahadur Shastri** resigned in 1956 as Railway minister, when there was incident of train accident, setting high standards of probity in public life.
4. **Dilution of Accountability:** Earlier politicians believed in deliberation, regularly attending Parliament sessions, but today's politicians avoid parliament sessions, and they are focusing on disruption rather than deliberation.
5. **Dilution of Public service:** The notion of public service has been diluted. Rather than prioritizing the people who are in need of the resources, rigid laws are followed, thereby obstructing the public service. Ex: Poor 65-year-old man is demanded bribe to avail the government service rather than government authorities dealing humanely with him by making the excuse of rigid rules.
6. **Contemporary Values:** Over the period of time post-Independence, we have witnessed the erosion of political values to manipulation, rivalry, corruption, Nepotism etc. Ex: Congress family is still led by members of Gandhi family, nepotism at play rather than meritocracy.
7. **Focus on Power over Public service:** Today's politicians are more interested in securing power rather than improving the lives of people through better governance. Ex: Governments in various state being formed by BJP through luring MLA'S of opposition through bribes.
8. **Changing Society:** Politicians cannot be blamed alone for such values completely, rather society in which they grew up is to be blamed. Political values can be defined as political relationships, institutions, organizations, views, and ideas resulting from the transforming, creative sociopolitical practice of the social forces that meet the requirements of social progress and of the development of human personality on a social scale.

The Society should prosper not in development terms alone but also in ethical values, because those values will be transmitted to next generation people. Those people will again produce leaders for themselves, hence people with high moral standards have to enter public life, which can change the lives of millions. The bulwarks of Indian democracy that is Judiciary, Election Commission of India, and Comptroller and Auditor General of India should play a proactive role in instilling those values among the politicians and the masses at large.