

Module 1-Introduction and Basic Information about Indian Constitution:

Meaning of the constitution law and constitutionalism, Historical Background of the Constituent Assembly, Government of India Act of 1935 and Indian Independence Act of 1947, Enforcement of the Constitution, Indian Constitution and its Salient Features, The Preamble of the Constitution, Fundamental Rights, Fundamental Duties, Directive Principles of State Policy, Parliamentary System, Federal System, Centre-State Relations, Amendment of the Constitutional Powers and Procedure, The historical perspectives of the constitutional amendments in India, Emergency Provisions: National Emergency, President Rule, Financial Emergency, and Local Self Government – Constitutional Scheme in India.

Module 2-Union Executive and State Executive:

Powers of Indian Parliament Functions of Rajya Sabha, Functions of Lok Sabha, Powers and Functions of the President, Comparison of powers of Indian President with the United States, Powers and Functions of the Prime Minister, Judiciary – The Independence of the Supreme Court, Appointment of Judges, Judicial Review, Public Interest Litigation, Judicial Activism, LokPal, Lok Ayukta, The Lokpal and Lok ayuktas Act 2013, State Executives – Powers and Functions of the Governor, Powers and Functions of the Chief Minister, Functions of State Cabinet, Functions of State Legislature, Functions of High Court and Subordinate Courts.

Module 3- Introduction and Basic Information about Legal System:

The Legal System: Sources of Law and the Court Structure: Enacted law -Acts of Parliament are of primary legislation, Common Law or Case law, Principles taken from decisions of judges constitute binding legal rules. The Court System in India and Foreign Courtiers (District Court, District Consumer Forum, Tribunals, High Courts, Supreme Court). Arbitration: As an alternative to resolving disputes in the normal courts, parties who are in dispute can agree that this will instead be referred to arbitration. Contract law, Tort, Law at workplace.

Module 4- Election provisions, Emergency provisions, Amendment of the constitution:

Election Commission of India-composition, powers and functions and electoral process. Types of emergency-grounds, procedure, duration and effects. Amendment of the constitution- meaning, procedure and limitations.

Module 5 -Business Organizations and E-Governance:

Sole Traders, Partnerships: Companies: The Company's Act: Introduction, Formation of a Company, Memorandum of Association, Articles of Association, Prospectus, Shares, Directors, General Meetings and Proceedings, Auditor, Winding up.

E-Governance and role of engineers in E-Governance, Need for reformed engineering serving at the Union and State level, Role of I.T. professionals in Judiciary, Problem of Alienation and Secessionism in few states creating hurdles in Industrial development.

COURSE OBJECTIVE:

- To acquaint the students with legacies of constitutional development in India and help those to understand the most diversified legal document of India and philosophy behind it.
- To make students aware of the theoretical and functional aspects of the Indian Parliamentary System.
- To channelize students' thinking towards basic understanding of the legal concepts and its implications for engineers.
- To learn procedure and effects of emergency, composition and activities of election commission and amendment procedure.
- To make students learn about role of engineering in business organizations and e-governance.

COURSE OUTCOME: At the end of the course, learners should be able to-

1. Identify and explore the basic features and modalities about Indian constitution.
2. Differentiate and relate the functioning of Indian parliamentary system at the center and state level.
3. Differentiate different aspects of Indian Legal System and its related bodies.
4. Discover and apply different laws and regulations related to engineering practices.
5. Correlate role of engineers with different organizations and governance models

Pedagogy: Lecture, Problem based learning, Group discussions, Visual media, Films, Documentaries, Debate forums.

Suggested Readings:

- Brij Kishore Sharma: *Introduction to the Indian Constitution*, 8th Edition, PHI Learning Pvt. Ltd.
- Granville Austin: *The Indian Constitution: Cornerstone of a Nation (Classic Reissue)*, Oxford University Press.
- S.G Subramanian: *Indian Constitution and Indian Polity*, 2nd Edition, Pearson Education 2020.
- Subhash C. Kashyap: *Our Constitution: An Introduction to India's Constitution and constitutional Law*, NBT, 2018.
- Madhav Khosla: *The Indian Constitution*, Oxford University Press.
- PM Bakshi: *The Constitution of India*, Latest Edition, Universal Law Publishing.
- V.K. Ahuja: *Law Relating to Intellectual Property Rights* (2007)
- Suresh T. Viswanathan: *The Indian Cyber Laws*, Bharat Law House, New Delhi-88
- P. Narayan: *Intellectual Property Law*, Eastern Law House, New Delhi
- Executive programme study material Company Law, Module II, by ICSI (The Institute of Companies Secretaries of India) (Only relevant sections i.e., Study 1, 4 and 36). <https://www.icsi.edu/media/webmodules/publications/Company%20Law.pdf>
- Handbook on e-Governance Project Lifecycle, Department of Electronics & Information Technology, Government of India, [https://www.meity.gov.in/writereaddata/files/e-Governance Project Lifecycle Participant Handbook-5Day CourseV1 20412.pdf](https://www.meity.gov.in/writereaddata/files/e-Governance%20Project%20Lifecycle%20Participant%20Handbook-5Day%20CourseV1%2020412.pdf)
- Companies Act, 2013 Key highlights and analysis by PWC. <https://www.pwc.in/assets/pdfs/publications/2013/companies-act-2013-key-highlights-and-analysis.pdf>

Module 1-Introduction and Basic Information about Indian Constitution:

Constitution

A constitution is primarily a set of rules and principles specifying how a country should be governed, how power is distributed and controlled, and what rights citizens possess.

A constitution is a set of fundamental legal-political rules that:

- i. Are binding on everyone in the state, including ordinary lawmaking institutions;
- ii. Concern the structure and operation of the institutions of government, political principles and the rights of citizens;
- iii. Are based on wide spread public legitimacy;
- iv. Are harder to change than ordinary laws (e.g. a two-thirds majority vote or a referendum is needed);
- v. As a minimum, meet the internationally recognized criteria for a democratic system in terms of representation and human rights.

Functions of Constitution

1. Constitutions can declare and define the boundaries of the political community
2. Constitutions can declare and define the nature and authority of the political community.
3. Constitutions can express the identity and values of a national community.
4. Constitutions can declare and define the rights and duties of citizens.
5. Constitutions can establish and regulate the political institutions of the community- defining the various institutions of government; prescribing their composition, powers and functions; and regulating the relations between them.
6. Constitutions can divide or share power between different layers of government or sub-state communities.

Basic element/Content of Constitution

Divisions: Most constitutions are divided and sub-divided into parts that may variously be known as titles, chapters, articles, sections, paragraphs or clauses.

Arrangement: Constitutions vary in the arrangement of their provisions, although it is now usual for principles and rights provisions to be placed in a separate section. The layout of a typical constitution might resemble the following:

- 1. Preamble:** A statement of the overarching motives and goals of the constitution-making exercise, sometimes referring to important historical events, national identity or values.
- 2. Preliminaries:** A declaration of sovereignty or of basic principles of government; the name and territory of the state; citizenship and franchise; state ideology, values or objectives.
- 3. Fundamental rights:** A list of rights, including their applicability, enforcement, limitations, suspension or restriction during a state of emergency.
4. Social and economic rights or policy directives.

- 5. Parliament or legislature:** Its structure, composition, terms of office, privileges, procedures, etc.
- 6. Head of state:** The method of selection, powers, terms of office.
- 7. Government (in a parliamentary or semi-presidential system) :** Government formation rules, responsibility, powers.
- 8. Judiciary:** Court system, judicial appointments, judicial independence, public prosecutors.
- 9. Sub-national government:** Federal or devolved powers, local government.
10. Provisions for referendums.
11. Institutions of the so-called integrity branch (electoral commission and audit institution etc).
- 12. Security sector:** Commander-in-chief, any restrictions on military power.
13. Other miscellaneous provisions: special provisions for particular groups, language laws, particular institution, etc.
14. Amendment procedures, implementation timetable and transitional provisions.

Salient features of the Constitution:

The salient features of the Constitution are:

1. A Written Constitution.
2. Lengthy Document.
3. Drawn from Different Sources.
4. A Federal Polity with a Unitary Bias.
5. Single Citizenship.
6. More Flexible than Rigid.
7. Democratic Republic.
8. Balance between Judicial Supremacy and Parliamentary Sovereignty.
9. Universal Adult Franchise.
10. Secular State.
11. Provision of Fundamental Rights.
12. Directive Principles for a Welfare State.
13. Incorporation of Fundamental Duties.
14. Emergency Provisions.
15. Protection of Minorities.
16. Provision for Autonomous Organisations.

Constitutionalism

The Idea Of Constitutionalism Suggests Ways And Means To Work Out A Governmental Form, Which Exercises Power And Ensures, At The Same Time, Individual Freedom And Liberty. Constitutional Government, Therefore, Should Necessarily Be Democratic Government.

Elements of Constitutionalism

1. Written Constitution
2. Independent Judiciary

3. Judicial Review
4. Rule of Law
5. Separation of Powers
6. Free and Fair Elections
7. Responsible Government
8. Fundamental Rights
9. Federalism
10. De-centralization of powers.

Constituent Assembly Of India

The Constituent Assembly of India was a sovereign body, which was formed to draft a Constitution for India. An idea for a Constituent Assembly was proposed in 1934 by M. N. Roy. It became an official demand of the Indian National Congress in 1935 and was accepted by the British in August 1940. It held its first sitting on 9 December 1946 and reassembled as Constituent Assembly for divided India on 14 August 1947. Its members were chosen by indirect election by the members of the Provincial Legislative Assemblies that had been established under the Government of India Act, 1935. The Constituent Assembly was composed roughly along the lines suggested by the plan proposed by the committee of the British cabinet, known as the Cabinet Mission.

1. The Constituent Assembly was formed on the recommendation of the Cabinet Mission which visited India in 1946.
2. The total strength of the Constituent Assembly was to be 389. Of these, 296 seats were to be allotted to British India and 93 seats to the Princely States.
3. Out of 296 seats allotted to the British India, 292 members were to be drawn from the 11 governors' provinces and 4 from the 4 chief commissioners' provinces.
4. Each province and princely state were to be allotted seats in proportion to their respective population. Roughly, 1 seat was to be allotted for every million population.
5. Seats allocated to each British province were to be decided among the three principal communities - Muslims, Sikhs and general, in proportion to their population.
6. The representatives of each community were to be elected by members of that community in the provincial legislative assembly.
7. The representatives of princely states were to be nominated by the heads of the princely states.
8. After formation of Pakistan the Muslim League members withdrew from the Constituent Assembly for India.
9. Consequently, the total strength of the Assembly came down to 299 as against 389.
10. The Constituent Assembly met for the first time in New Delhi on 9th December, 1946.
11. Dr. Rajendra Prasad became the permanent chairman of the constituent assembly.
12. On 13th December, 1946, Pandit Jawaharlal Nehru moved the Objectives Resolution which resolved to proclaim India as an Independent Sovereign Republic and to draw up for her future governance, a Constitution.
13. The Constituent Assembly took two years, eleven months and eighteen days to complete its historic task of drafting the Constitution for Independent India.
14. The Constituent Assembly held 11 sessions covering a total of 165 days.

15. The honourable members appended their signatures to the constitution on 24th January, 1950. The Constitution of India came into force on 26th January, 1950.

16. On that day, the Constituent Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952.

Functions of the constituent assembly:

1. Framing the Constitution.
2. Enacting laws and involved in the decision making process.
3. It adopted the National flag on July 22, 1947.
4. It accepted and approved India's membership of the British Commonwealth in May 1949.
5. It elected Dr. Rajendra Prasad as the first President of India on January 24, 1950.
6. It adopted the National anthem on January 24, 1950.
7. It adopted the National song on January 24, 1950.

Drafting Committee:

Among all the committees of the Constituent Assembly, the most significant was the Drafting Committee set up on August 29, 1947. It was this committee that was entrusted with the task of preparing a draft of the new Constitution. It consisted of seven members. They were :

- i. Dr. B.R. Ambedkar (Chairman)
- ii. N. Gopalswami Ayyangar
- iii. Alladi Krishnaswami Ayyar
- iv. K.M. Munshi
- v. Mohammed Sadullah
- vi. B.L. Mittar (replaced by N. Madhav Rao)
- vii. D.P. Khaitan (who died in 1948 and was replaced by T.T. Krishnamachari)

The Drafting Committee, after taking into consideration the proposals of the various committees, prepared the first draft of the Constitution of India, which was published in February 1948. The people of India were given 8 months to discuss the draft and propose amendments. In the light of the public comments, criticisms and suggestions, the Drafting Committee prepared a second draft, which was published in October 1948.

Government of India Act of 1935

The Government of India Act was passed by the British Parliament in August 1935. It was the longest act enacted by the British Parliament at that time. So, it was divided into two separate acts namely, the Government of India Act 1935 and the Government of Burma Act 1935. The Government of India Act 1935 derived material from four key sources viz. Report of the Simon Commission, discussions at the Third Round Table Conference, the White Paper of 1933 and the reports of the Joint select committees.

This act ended the system of dyarchy introduced by Government of India Act, 1919. It provided for establishment of a Federation of India to be made up of provinces of British India and some or all of the Princely states. However, the federation never came into being as the required number of princely states did not join it.

Government of India Act of 1935:

Salient Features of the Government of India Act 1935 were as follows :

1. Abolition of provincial dyarchy and introduction of dyarchy at centre.
2. Abolition of Indian Council and introduction of an advisory body in its place.
3. Provision for an All India Federation with British India territories and princely states.
4. Elaborate safeguards and protective instruments for minorities.
5. Supremacy of British Parliament.
6. Increase in size of legislatures, extension of franchise, division of subjects into three lists and retention of communal electorate.
7. Separation of Burma from India.

Indian Independence Act of 1947

The Indian Independence Act, enacted and adopted by the British Parliament, receives royal assent on 18 July 1947. The Indian Independence Act creates two new independent Dominions: India (Hindu) and Pakistan (Muslim). The provinces which were formerly administered directly by the British are attached to one or other of these two states, depending on whether the majority of the population is Hindu or Muslim. The princely states are free to decide whether they belong to Pakistan or India. India obtained its independence on 15 August 1947.

Salient features of Indian Independence Act of 1947:

1. It provided for two dominion states: India and Pakistan.
2. The authority of the British Crown over the princely states ceased and they were free to join either India or Pakistan or remain independent.
3. The constituent assemblies of both the states were free to make constitutions of their respective countries.
4. British Government would not continue any control on any dominion.
5. The Governor General was invested with adequate powers until March 1948 to issue orders for effective implementation of the provisions of the Indian Independence Act, 1947.
6. Those civil servants who had been appointed before the August 15, 1947, will continue in service with same privileges.

Preamble to the Indian constitution

A preamble is an introductory statement in a document that explains the document's philosophy and objectives. In a Constitution, it presents the intention of its framers, the history behind its creation, and the core values and principles of the nation. The preamble basically gives idea of the following:

- a. Source of the Constitution
- b. Nature of Nation's State

- c. Statement of its objectives
- d. Date of its adoption

Preamble to the Indian constitution:

The ideals behind the Preamble to India's Constitution were laid down by Jawaharlal Nehru's Objectives Resolution, adopted by the Constituent Assembly on January 22, 1947. Although not enforceable in court, the Preamble states the objectives of the Constitution, and acts as an aid during the interpretation of Articles when language is found ambiguous.

Components of Preamble :

1. It is indicated by the Preamble that the source of authority of the Constitution lies with the people of India.
2. Preamble declares India to be a sovereign, socialist, secular and democratic republic.
3. The objectives stated by the Preamble are to secure justice, liberty, equality to all citizens and promote fraternity to maintain unity and integrity of the nation.
4. The date is mentioned in the preamble when it was adopted i.e. November 26, 1949.

Key words in the Preamble :

- 1. We, the people of India:** It indicates the ultimate sovereignty of the people of India. Sovereignty means the independent authority of the State, not being subject to the control of any other State or external power.
- 2. Sovereign:** The term means that India has its own independent authority and it is not a dominion of any other external power. In the country, the legislature has the power to make laws which are subject to certain limitations.
- 3. Socialist:** The term means the achievement of socialist ends through democratic means. It holds faith in a mixed economy where both private and public sectors co-exist side by side. It was added in the Preamble by 42nd Amendment, 1976.
- 4. Secular:** The term means that all the religions in India get equal respect, protection and support from the state. It was incorporated in the Preamble by 42nd Constitutional Amendment, 1976.
- 5. Democratic:** The term implies that the Constitution of India has an established form of Constitution which gets its authority from the will of the people expressed in an election.
- 6. Republic :** The term indicates that the head of the state is elected by the people. In India, the President of India is the elected head of the state.

Fundamental Rights

Fundamental rights are the basic human rights enshrined in the Constitution of India which are guaranteed to all citizens.

They are applied without discrimination on the basis of race, religion, gender, etc. Also, fundamental rights are enforceable by the courts, subject to certain conditions. These rights are called fundamental rights because of two reasons:

- i. They are enshrined in the Constitution which guarantees them.
- ii. They are enforceable by courts. In case of a violation, a person can approach a court of law.

Fundamental Rights of Indian Constitution:

There are six fundamental rights of Indian Constitution which are mentioned below:

- i. Right to Equality
- ii. Right to Freedom
- iii. Right against Exploitation
- iv. Right to Freedom of Religion
- v. Cultural and Educational Rights
- vi. Right to Constitutional Remedies

A. Right to Equality:

- 1. The constitutional articles related to right to equality are mentioned in Articles 14 - 18.
- 2. It guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth.
- 3. It ensures equal employment opportunities in the government and insures against discrimination by the State in matters of employment on the basis of caste, religion, etc.
- 4. It also includes the abolition of titles as well as untouchability.

B. Right to Freedom:

- 1. The constitutional articles related to right to freedom are mentioned in Articles 19 - 22.
- 2. Freedom is the most important ideals of any democratic society. The Indian Constitution guarantees freedom to citizens.
- 3. The freedom right includes many rights such as :
 - i. Freedom of speech
 - ii. Freedom of expression
 - iii. Freedom of assembly without arms
 - iv. Freedom of association
 - v. Freedom to practice any profession
 - vi. Freedom to reside in any part of the country.
- 4. Some of these rights are subject to certain conditions of state security, public morality, etc.
- 5. The State also has the right to impose reasonable restrictions on them.

C. Right against exploitation:

- 1. The constitutional articles related to right against exploitation are mentioned in Articles 23 - 24.
- 2. This right implies the prohibition of traffic in human beings, begar, and other forms of forced labour.
- 3. It also implies the prohibition of children in factories, etc.
- 4. The Constitution prohibits the employment of children less than 14 years in hazardous conditions.

D. Right to Freedom of Religion:

- 1. The constitutional articles related to right to freedom of religion are mentioned in Articles 25 - 28.
- 2. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.
- 3. This indicates the secular nature of Indian polity. There is equal respect given to all religions.

4. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion.

E. Cultural and Educational Rights:

1. The constitutional articles related to cultural and educational rights are mentioned in Articles 29 - 30.
2. These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture.
3. Educational rights are for ensuring education for everyone without any discrimination.

F. Right to Constitutional Remedies:

1. The constitutional articles related to right to constitutional remedies are mentioned in Articles 32.
2. The Constitution guarantees remedies if citizens' fundamental rights are violated.
3. The government cannot infringe upon or curb anyone's rights.
4. When these rights are violated, the aggrieved party can approach the courts.

Fundamental duties in India

The Fundamental Duties of citizens were added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee. The Committee suggested that steps needed to be taken to ensure that the individual did not overlook his duties while in exercise of his Fundamental Rights. The Fundamental duties are essentially taken from the Indian tradition, mythology, religions and practices. Essentially these were the duties that are the codification of tasks integral to the Indian way of life.

The list of 11 Fundamental Duties to be obeyed by every Indian citizen is given below:

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
2. To cherish and follow the noble ideals which inspired our national struggle for freedom;
3. To uphold and protect the sovereignty, unity and integrity of India;
4. To defend the country and render national service when called upon to do so;
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
6. To value and preserve the rich heritage of our composite culture;
7. To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
8. To develop the scientific temper, humanism and the spirit of inquiry and reform;
9. To safeguard public property and to abjure violence;
10. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
11. Provide opportunities for education to his child or ward between the age of six and fourteen years.

Directive Principles of State Policy

1. In 1945 the Sapru Committee suggested two categories of individual rights.

2. One being justifiable (Fundamental Rights) and the other being non-justifiable (Directive Principles of State Policy) rights.
3. Directive Principles of State Policy are ideals which are meant to be kept in mind by the state when it formulates policies and enacts laws.
4. Following are various definitions to Directive Principles of State :
 - i. Directive Principles of State Policy's are ideals which are not legally enforceable by the courts for their violation.
 - ii. They seek to establish economic and social democracy in the country.
 - iii. They are an 'instrument of instructions' which are enumerated in the Government of India Act, 1935.

(a) Directive Principles of State Policy on the basis of Socialistic Principles:

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

- **Article 38 :** Promote the welfare of the people by securing a social order through justice and to minimise inequalities in income, status, facilities and opportunities.
- **Article 39 :**
 - i. Secure right to adequate means of livelihood for all citizens.
 - ii. Secure equitable distribution of material resources of the community for the common good.
 - iii. Prevention of concentration of wealth and means of production.
 - iv. Secure equal pay for equal work for men and women.
 - v. Preservation of the health and strength of workers and children against forcible abuse.
 - vi. Secure opportunities for the healthy development of children.
 - **Article 39A :** Promote equal justice and free legal aid to the poor.
 - **Article 41 :** In cases of unemployment, old age, sickness and disablement, secure citizens :
- i. Right to work.
- ii. Right to education.
- iii. Right to public assistance.
 - **Article 42:** Make provision for just and humane conditions of work and maternity relief.
 - **Article 43:** Secure a living wage, a decent standard of living and social and cultural opportunities for all workers.
 - **Article 43A:** Take steps to secure the participation of workers in the management of industries.
 - **Article 47:** Raise the level of nutrition and the standard of living of people and to improve public health.

(b) Directive Principles of State Policy on the basis of Gandhian Principles:

These principles are based on Gandhian ideology. They are used to represent the programme of reconstruction enunciated by Mahatma Gandhiji during the independence movement. Under following articles, they direct the state to :

- i. **Article 40:** Organize village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government.
- ii. **Article 43:** Promote cottage industries on an individual or cooperation basis in rural areas.

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

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

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

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

(c) Directive Principles of State Policy on the basis of Liberal-Intellectual Principles:

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

- **Article 44 :** Secure for all citizens a uniform civil code throughout the country.
- **Article 45 :** Provide early childhood care and education for all children until they complete the age of six years.
- **Article 48 :** Organize agriculture and animal husbandry on modern and scientific lines.
- **Article 49 :** Protect monuments, places and objects of artistic or historic interest which are declared to be of national importance.
- **Article 50 :** Separate the judiciary from the executive in the public services of the State.
- **Article 51 :**
 - i. Promote international peace and security and maintain just and honourable relations between nations.
 - ii. Foster respect for international law and treaty obligations.
 - iii. Encourage settlement of international disputes by arbitration.

(d) Directive Principles of State Policy's added by the 42nd Amendment Act, 1976:

Following 4 new Directive Principles are added in 42nd Amendment Act, 1976 :

- **Article 39:** To secure opportunities for the healthy development of children.
- **Article 39A:** To promote equal justice and to provide free legal aid to the poor.
- **Article 43A:** To take steps to secure the participation of workers in the management of industries.
- **Article 48A:** To protect and improve the environment and to safeguard forests and wildlife.

Parliamentary System of Government in India

India has a parliamentary system of Government. India chose a parliamentary form of government primarily because the constitution makers were greatly influenced by the system in England. Another reason the founding fathers saw was that the parliamentary model would only work to accommodate the varied and diverse groups within our population. Also, the strict separation of powers in the presidential system would cause conflicts between the two branches, the executive and the legislature, which our newly-independent country could ill-afford.

In parliamentary system, the parliament is generally supreme and the executive is responsible to the legislature. It is also known as the Cabinet form of government, and also 'Responsible Government'.

Features of the parliamentary system:

1. Close relationship between the legislature and the executive :

The Prime Minister along with the Council of Ministers form the executive and the Parliament is the legislature. The Prime Minister and the ministers are elected from the members of parliament, implying that the executive emerges out of the legislature.

2. Executive responsible to the legislature: The executive is responsible to the legislature. There is a collective responsibility, that is, each minister's responsibility is the responsibility of the whole Council.

3. Dual executive: There are two executives - the real executive and the titular executive. The nominal executive is the head of state (president or monarch) while the real executive is the Prime Minister, who is the head of government.

4. Secrecy of procedure: A prerequisite of this form of government is that cabinet proceedings are secret, and not meant to be divulged to the public.

5. Leadership of the Prime Minister: The leader of this form of government is the Prime Minister.

6. Bicameral Legislature: Most parliamentary democracies follow bicameral legislature.

7. No fixed tenure: The term of the government depends on its majority support in the lower house. If the government does not win a vote of no confidence, the council of ministers has to resign.

Merits and Demerits of Parliamentary System

Merits of Parliamentary System :

1. Better coordination between the executive and the legislature:

Since the executive is a part of the legislature, and generally the majority of the legislature supports the government, it is easier to pass laws and implement them.

2. Prevents authoritarianism: Since the executive is responsible to the legislature, and can vote it out in a motion of no confidence, there is no authoritarianism.

3. Responsible government: The members of the legislature can ask questions and discuss matters of public interest and put pressure on the government. The parliament can check the activities of the executive.

4. Representing diverse groups: In this system, the parliament offers representation to diverse groups of the country.

5. Flexibility: There is flexibility in the system as the Prime Minister can be changed easily if needed.

Demerits of Parliamentary System:

1. No separation of powers: Since there is no genuine separation of powers, the legislature cannot always hold the executive responsible. Also, because of anti-defection rules, legislators cannot exercise their free will and vote as per their understanding and opinions.

- 2. Unqualified legislators:** The system creates legislators whose intention is to enter the executive only. They are largely unqualified to legislate.
- 3. Instability:** Since the governments sustain only as long as they can prove a majority in the house, there is instability if there is no single largest party after the elections. Coalition governments are generally quite unstable and short-lived. Because of this, the executive has to focus on how to stay in power rather than worry about the state of affairs/welfare of the people.
- 4. Ministers:** The executive should belong to the ruling party. This rules out the hiring of industry experts for the job.
- 5. Failure to take a prompt decision:** Because there is no fixed tenure enjoyed by the Council of Ministers, it often hesitates from taking bold and long-term policy decisions.
- 6. Party politics:** Party politics is more evident in the parliamentary system where partisan interests drive politicians more than national interests.
- 7. Control by the bureaucracy:** Civil servants advise the ministers on various matters and are also not responsible to the legislature.

Federal System of India

There are generally two types of states in the world. The state that has only one government for the entire country is known as a unitary state.

The state which has governments at two levels: one at the central level and the other at the state level is known as a federal state.

Besides having two sets of government, a federal system must have three other features :

- i. A written constitution,
- ii. Division of powers between the central government and the state governments, and
- iii. Supremacy of the judiciary to interpret the constitution. India has a federal system having all these features.

Although India is a federal system but it has more tilt towards a unitary system of government. It is sometimes considered a quasi-federal system as it has features of both a federal and a unitary system. Elements of federalism were introduced into modern India by the Government of India Act of 1919, which separated powers between the centre and the provincial legislatures.

Federal Features of India:

Governments at two levels - centre and states. It's salient features are as follows:

1. Division of powers between the centre and states: There are 3 lists given in the Seventh Schedule of the Constitution which gives the subjects each level has jurisdiction in :

- i. Union List
- ii. State List
- iii. Concurrent List

2. Supremacy of the constitution: The basic structure of the constitution is indestructible as laid out by the judiciary. The constitution is the supreme law in India.

3. Independent judiciary: The constitution provides for an independent and integrated judiciary. The lower and district courts are at the bottom levels, the high courts are at the state

levels and at the topmost position is the Supreme Court of India. All courts are subordinate to the Supreme Court.

Centre-State Relations

India is a union of states. The constitution of India has divided the legislative, executive and financial powers between the centre and the states, which gives the constitution a federal character whereas judiciary is integrated in a hierarchical structure. The centre-state relations are divided into three parts, which are mentioned below:

A. Legislative Relations :

1. Articles 245 to 255 describe Legislative relations between centre and states. These include:
 - i. Territorial jurisdiction of laws made by the Parliament and by the Legislatures of States.
 - ii. Distribution of legislative subjects.
 - iii. Power of parliament to legislate with respect to a matter in the State List.
 - iv. Centre's control state legislation.
2. Article 245 empowers the centre to give directions to the states in certain cases in regards to the exercise of their executive powers.
3. Article 249 empowers the parliament to legislate with respect to a matter in the State List in the national interest.
4. Under Article 250, the parliament becomes empowered to make laws on the matters related to state list when national emergency (under Article 352) is in operation.
5. Under Article 252, the parliament is empowered to legislate for two or more States by their consent.

B. Administrative Relations :

1. Article 256 to 263 deals with the administrative relations between the centre and the states.
2. Article 256 states that the executive power of every State shall be so exercised as to ensure compliance with the laws made by the parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

Cooperation between the Centre and the States:

The constitution lays down various provisions to secure cooperation and coordination between the centre and the states. These include:

- i. Article 261 states that "Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State".
- ii. According to Article 262, the parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
- iii. Article 263 empowers the President to establish an inter-State Council to inquire into and advise upon disputes between states, to investigate and discuss subjects in which some or all of the States, or the Union and one or more of the States, have a common interest.
- iv. As per Article 307, Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of the constitutional provisions related to the inter-state freedom of trade and commerce.

C. Financial Relations:

1. Article 268 - 293 of Part XII deals with the financial relations between the centre and the states.

➤ **Allocation of taxing powers:** The Constitution has provided the union government and the state governments with the independent sources of revenue. It allocates the powers to centre and the states in the following way :

- i. The parliament has exclusive power to levy taxes on the subjects mentioned in the Union List.
- ii. The state legislature has exclusive power to levy taxes on the subjects mentioned in the State List.
- iii. Both the parliament and the state legislature are empowered to levy taxes on the subjects mentioned in the Concurrent List.
- iv. The parliament has exclusive power to levy taxes on the matters related to the residuary subjects.

➤ **Tax revenue distribution :**

1. Article 268 states that duties are levied by the Union but are collected and appropriated by the States.
2. Service tax levied by Union and collected and appropriated by the Union and the States (Article 268A).
3. Taxes levied and collected by the Union but assigned to the States (Article 269).
4. Taxes levied and collected by the Union but distributed between the Union and the States (Article 270).
5. Surcharge on certain duties and taxes for purposes of the Union (Article 271).
6. Under Article 275, the parliament is authorized to provide grants-in-aid to any state as parliament may determine to be in need of assistance, and different sums may be fixed for different States.
7. Under Article 282, the union or a state may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.
8. Under Article 352, during the operation of national emergency, the distribution of revenues between the centre and the states can be altered by the president.
9. Under Article 360, during the financial emergency, the executive authority of the Union shall give directions to any State to observe such canons of financial propriety as may be specified in the directions and to the give the directions as the President may deem necessary and adequate for the purpose.

Procedure of amendments of the constitution of Indian under Article 368:

Article 368 in Part XX of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure .The Constitution of India provides for its amendment in order to adjust itself to the changing conditions and needs. The procedure for the amendment of the Constitution as laid down under Article 368 is as follows:

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

Historical perspectives of the Constitutional amendments in India

- 1. First Amendment Act, 1951:** The state was empowered to make special provisions for the advancement of socially and backward classes.
- 2. Second Amendment Act, 1952:** The scale of representation in the Lok Sabha was readjusted stating that 1 member can represent even more than 7.5 lakh people.
- 3. Seventh Amendment Act, 1956:**
 - i. The provision of having a common High Court for two or more states was introduced.
 - ii. Abolition of Class A, B, C and D states - 14 States and 6 Union Territories were formed.
 - iii. Introduction of Union Territories.
- 4. Ninth Amendment Act, 1960:** Adjustments to Indian Territory as a result of an agreement with Pakistan (Indo-Pak Agreement 1958).
- 5. Tenth Amendment Act, 1961:** Dadra, Nagar and Haveli incorporated in the Union of Indian as a Union Territory.
- 6. 12th Amendment Act, 1962:** Goa, Daman and Diu incorporated in the Indian Union as a Union Territory.
- 7. 13th Amendment Act, 1962:** Nagaland was formed with special status under Article 371A.
- 8. 14th Amendment Act, 1962:**
 - i. Pondicherry incorporated into the Indian Union.
 - ii. Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu were provided the legislature and council of ministers.
- 9. 19th Amendment Act, 1966:** System of Election Tribunals was abolished and High Courts were given the power to hear the election petitions.
- 10. 21st Amendment Act, 1967:** Sindhi language was language into 8th Schedule of Indian Constitution.

- 11. 24th Amendment Act, 1971:** The President's assent to Constitutional Amendment Bill was made compulsory.
- 12. 25th Amendment Act, 1971:** Fundamental Right to Property was curtailed.
- 13. 26th Amendment Act, 1971:** Privy Purse and privileges of former rulers of princely states were abolished.
- 14. 31st Amendment Act, 1972 :** Lok Sabha seats were increased from 525 to 545.
- 15. 35th Amendment Act, 1974 :** The status of Sikkim as protectorate state was terminated and Sikkim was given the status of 'Associate State' of India.
- 16. 36th Amendment Act, 1975 :** Sikkim was made a full-fledged state of India.
- 17. 40th Amendment Act, 1976 :** Parliament was empowered to specify from time to time the limits of the territorial waters, the continental shelf, the exclusive economic zone (EEZ) and the maritime zones of India.
- 18. 42nd Amendment Act, 1976 :** Since the 42nd Amendment act is the most comprehensive amendment of the Indian Constitution, called the 'Mini-Constitution'.
- 19. 44th Amendment Act, 1978 :** It is also one of the important amendments in the Indian Constitution, enacted by the Janata Government.

Emergency Provisions in Indian Constitution

The Indian Constitution gives President the authority to declare three types of emergencies: National Emergency, State Emergency and Financial Emergency. Emergency provisions in India are borrowed from Weimar Constitution of Germany. Constitution of India envisages emergency of following three types:

A. National Emergency (Article 352):

- Under article 352, if the president is satisfied that there exists a grave situation, wherein the security of the country is threatened on the grounds of wars, external aggression or armed rebellion, he can proclaim emergency to that effect.
- Emergency can be declared over the complete territory of India or any part thereof.
- President can declare emergency only on the written advice of the cabinet.
- A special majority is required to approve an emergency resolution. Once approved, emergency shall operate for a maximum period of not more than six months.
- Lok Sabha has the power to disapprove the operation of national emergency at any time, if not less than 1/10th members of Lok Sabha in writing to the speaker, if house is in session, or to the president, then speaker or president as the case may be, shall convene a special session of Lok Sabha within 14 days and if such a resolution is passed, president shall revoke national emergency.

B. Emergency in State (President's Rule) (Article 356):

- According to Article 356, President's Rule can be imposed on any state of India on the grounds of the failure of the constitutional machinery. This is of two types :
 - i. If the President receives a report from the state's Governor or otherwise is convinced or satisfied that the state's situation is such that the state government cannot carry on the governance according to the provisions of the Constitution.

ii. Article 365 : As per this Article, President's Rule can be imposed if any state fails to comply with all directions given by the Union on matters it is empowered to.

- In other words, President's Rule is when the state government is suspended and the central government directly administers the state through the office of the governor (centrally appointed).
- It is also called 'State Emergency' or 'Constitutional Emergency'.

C. Financial Emergency (Article 360):

- If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, can declare the Financial Emergency on the aid and advice of the Council of Ministers.
- Article 360 gives authority to the President of India to declare a financial emergency.
- The Supreme Court can review the declaration of Financial Emergency.
- This emergency is never imposed in India.

Local self-government

Local self-government implies the transference of the power to rule to the lowest rungs of the political order. It is a form of democratic decentralization where the participation of even the grass root level of the society is ensured in the process of administration. The village panchayat, as a system of administration, began in the British days, as their offer to satisfy the demands for local autonomy. They opened up the governance of the lowest levels to the citizens. The Government of India Act of 1935 also authorizes the provinces to enact legislations.

The conceptualization of the system of local self-government in India took place through the formation and effort of four important committees from the year 1957 to 1986.

Balwant Rai Mehta Committee (1957): The important recommendations of this committee are:

- Establishment of a three-tier Panchayati Raj system – gram panchayat at village level (direct election), panchayat Samiti at the block level and Zila Parishad at the district level (indirect election).
- District Collector to be the chairman of Zila Parishad.
- Transfer of resources and power to these bodies to be ensured.

Ashok Mehta Committee (1977-1978): The important recommendations of this committee are :

- Three-tier system to be replaced by a two-tier system.
- Political parties should participate at all levels in the elections.
- Compulsory powers of taxation to be given to these institutions.
- Zila Parishad to be made responsible for planning at the state level.
- A minister for Panchayati Raj to be appointed by the state council of ministers.
- Constitutional recognition to be given to Panchayati Raj institutions.

GVK Rao Committee (1985) : The important recommendations of this committee are :

- Zila Parishad to be given prime importance and all developmental programs at that level to be handed to it.
- Post of DDC (District Development Commissioner) to be created acting as the chief executive officer of the Zila Parishad.

- Regular elections to be held.

LM Singhvi Committee (1986) : The important recommendations of this committee are :

- Constitutional recognition for PRI institutions.
- Nyaya Panchayats to be established for clusters of villages.

Panchayats and Municipalities

- Panchayat and Municipality are the generic terms for the governing body at the local level. Both exist as three tier systems - at the lower, intermediate and upper levels.
- The 73rd Constitutional Amendment act provides for a Gram Sabha as the foundation of the Panchayati Raj system. It is essentially a village assembly consisting of all the registered voters in the area of the panchayat.
- The state has the power to determine what kind of powers it can exercise, and what functions it has to perform at the village level.
- The 74th Constitutional Amendment act provides for three types of Municipalities :
 - Nagar Panchayat for a transitional area between a rural and urban area.
 - Municipal Council for a small urban area.
 - Municipal Corporation for a large urban area.
- Most of the provisions of the two acts are parallel, differing only in the fact that they are being applied to either a Panchayat or a Municipality respectively.
- The chairperson of the Panchayat or Municipality at the intermediate and district level are elected from among the representatives at the immediately lower level by indirect election.