

THE CONSTITUTION OF INDIA

Subject Code –HS 16

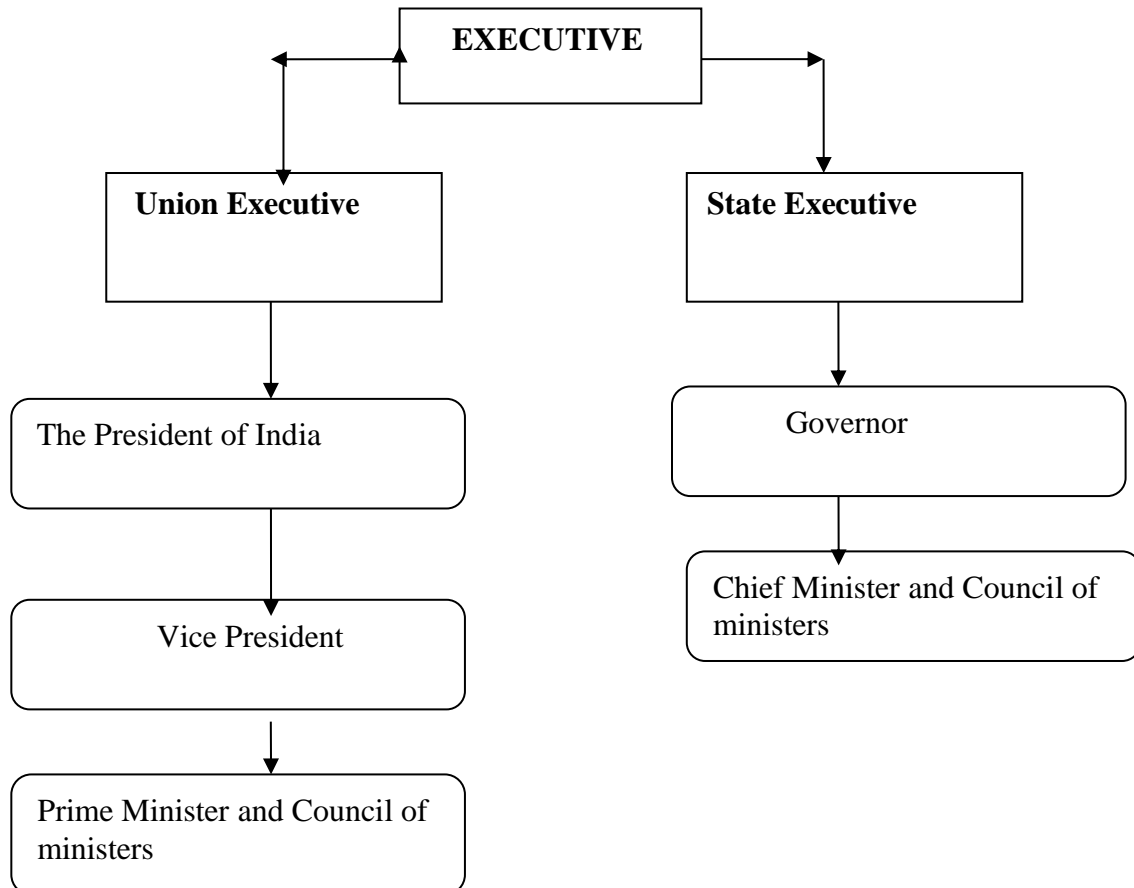
UNIT 3

The three organs of government

- **Legislature**
- **Executive**
- **Judiciary**

Three main organs of state.

↓ ↓ ↓
Legislature Executive Judiciary



1 Union executive

The President of India

Article 52 declares that there shall be a President of India.

President is the first citizen and the Constitutional head of the nation.

Qualifications:

1. Shall be a citizen of India
2. Shall have completed 35 years of age.
3. Shall be qualified to be elected as a member of Lok Sabha.
4. Shall not hold any office of profit.

Powers of President

Executive power: The executive power of the Union Government is vested with the President. PM, council of ministers, Attorney General, Comptroller and Auditor General, Chief finance commissioner, members of election commission of India, High Commissioners, governors ambassadors etc are appointed by the President.

President is the Commander in Chief of all the armed forces.

War declaration by India shall be signed by the President.

Legislative power: Parliament can enact a new law only with the consent or assent of the President. A bill adopted by both the houses of parliament turns into a new law only with the consent of the President. A money bill can be introduced only in Lok Sabha with the previous permission of President.

President can summon both the houses of parliament and address the meetings.

President's power to veto a bill: Parliament can enact a new law only if the President gives his assent. A bill adopted by both the houses of parliament turns into a new law on receipt of the consent of the President. In certain situations the President can withhold his assent on a bill adopted by the parliament and it is known as veto. Effect of veto is the termination of the bill after a stipulated time.

Ordinance making power: Article 123 empowers the President to promulgate an ordinance. When the Parliament is not in session and if there is urgency of an action, President can promulgate ordinance. The ordinance has got the same force of an Act made by the parliament, but it has to be adopted by both the houses within 6 weeks from the date of re assembly.

Judicial powers: The judges of SC and HCs are appointed by the President.

Transfer of High Court judges can be made only with the consent of President.

President can pardon all the punishments imposed by the judiciary including capital punishment.

Financial powers: For introducing money bill and budget in the Parliament, the consent of President is essential

Emergency powers: When the security of the nation is threatened or if the constitutional machinery of a state is in crisis the President can proclaim emergency.

Election of President of India

The first citizen of India is the President and he shall be an elected person. The President of India is elected through an electoral college which comprises of all the elected members of parliament and all the elected members of the state legislative assemblies (all the elected MPs and all the

elected MLAs). The method adopted is known as the 'proportional representation by means of single, transferable, secret ballot'. The term of President is 5 years. Before assuming the office, the President has to take an oath and that will be administered by the Chief Justice of India.

The President being the first citizen of India, his office cannot be kept vacant. Before the expiration of the term of President, the successor has to be elected. If a vacancy occurs in the President's office because of his death or resignation, Vice –President will become the acting President. Within 6 month from the date of occurrence of vacancy the new President shall be elected.

Impeachment of President of India

The process of removal of President of India from his post is known as impeachment. President can be impeached only for the violation of Constitution. The proceeding can be initiated by introducing a resolution either in Rajya Sabha or in Lok Sabha. An enquiry will be conducted about the charges leveled against the President and resolution will be put to vote in both houses. If the resolution is adopted with special majority in both houses, President stands impeached.

Vice president of India

He is the Ex- officio chairman of the Council of States. VP can be elected through an electoral college consisting of all the members of parliament. The term is 5 years and he can resign from the position by submitting a letter of resignation to the President. In case of vacancy in the office of President, VP can act as the President.

Qualifications:

1. Shall be a citizen of India
2. Shall have completed 35 years of age.
3. Shall be qualified to be elected as a member of Rajya Sabha.
4. Shall not hold any office of profit.

Prime Minister of India and council of ministers

Article 74 of the Constitution states that there shall be a council of minister headed by Prime Minister to aid and advice the President.

The real executive power of union of India is vested with the council of ministers headed with Prime Minister. The PM is appointed by the President. Other ministers will be selected by the PM and appointed by the President. .PM is the leader of the ministry; he can decide the size of the cabinet, reshuffle it and also allot departments to the ministers. If the PM resigns cabinet also dissolves.

The council of ministers is collectively responsible the lower house of parliament, Lok Sabha. For the lapse of an individual minister the entire ministry will be answerable to Lok Sabha.

The number of ministers in the council including PM shall not exceed 15% of the total number of members in Lok Sabha.

According to article 75(3) a member of Rajya Sabha or Lok Sabha only is eligible to get appointed as a minister. However a non member also can be appointed as a minister and within 6 months from the date of appointment the person shall become a Member of Parliament. Otherwise the minister ship will b terminated.

Council of ministers.

Ensuring smooth functioning of the administration of nation is the prime most duty of the council of ministers. Framing policies for the government, drafting Bills, preparing union budget, formulating foreign policies of the nation, suggesting amendments to the constitution etc. are the

other functions of the council of ministers. Various ministers in the council can be classified into different categories namely cabinet ministers, minister of state, deputy ministers etc.

2. State executive

Governor

The executive power of a state is vested with the Governor who is appointed by the President.

Qualifications:

Must be a citizen of India

Must have attained 35 years of age

Must not be a Member of Parliament or any state legislatures.

Shall not hold any office of profit.

Powers:

1. Appoints the CM of a state and other ministers.
2. Governor has the right to know about all the administrative actions taken by the state ministry.
3. Can review, assent or dissent the bills passed by the state legislature
4. During state emergency, the administration of the state will be with the governor.
5. Governor can promulgate ordinance when the state legislature is not in session (article 213).
6. A governor can pardon all sentences imposed by the judiciary other than capital punishment.
7. Appointment of Advocate General, Vice- Chancellors of universities etc.

Term of office: The term of office of a governor is 5 years. However President can remove a governor from his post at any time on sufficient grounds. A person can act as the governor of two or more states simultaneously.

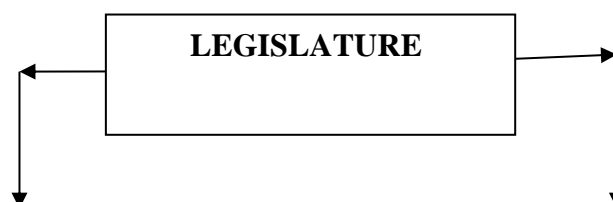
Chief Minister and Council of Ministers

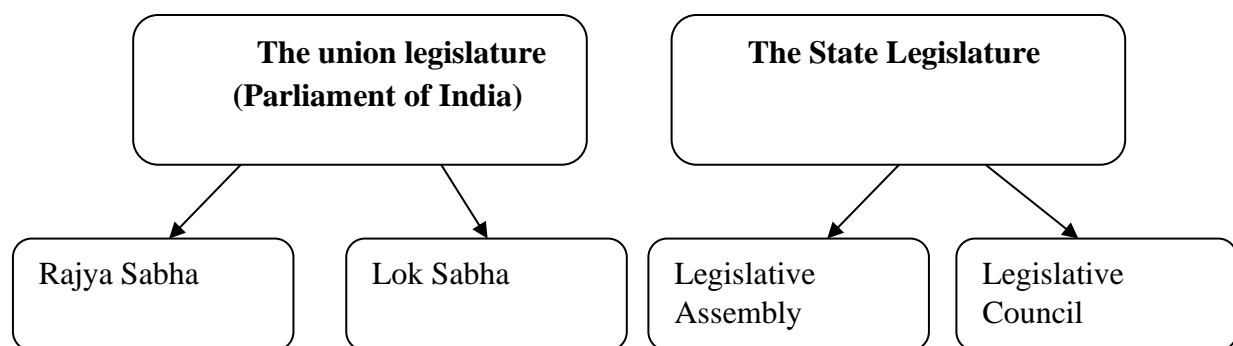
Chief Minister.

Chief Minister is the head of the state ministry and is appointed by the governor of the state. Other ministers will be selected by the CM and appointed by the governor. CM is the leader of the state ministry; he can decide the size of the cabinet, reshuffle it and also allot departments to the ministers. CM is empowered to supervise the functioning of the other departments. CM is also bound to maintain good relationship with the central government.

Council of ministers

The number of ministers in the council including CM shall not exceed 15% of the total number of members in Legislative Assembly. Ministers in the council are appointed by the governor on advice of the CM. Various ministers in the council can be classified into different categories namely cabinet ministers, minister of state, deputy ministers etc.





Division of power between Central Government and state governments

Schedule VII

Schedule VII of the Indian Constitution divides the power of governance of the nation between central government and state governments through 3 main lists namely union list, state list and concurrent list.

Union list

Union list contains 100 subject matters. Upon the subject matters given in union list Parliament of India alone can enact laws.

Atomic energy, defense of India etc. are items contained in union list.

State list- contains 61 subject matters and only state legislatures can enact laws on these items.

Concurrent list- Concurrent list is regarded as a common pool for both central and state legislatures; hence parliament of India and state legislatures can enact laws on subject matters given in concurrent list. 52 items are there in this list.

Thus schedule VII divides the power of governance of the nation between central and state governments which is an important federal feature of Indian Constitution.

1. Parliament of India- The union legislature

In India, the union legislature is known as the Parliament. It can enact laws for the entire nation or any part thereof. Parliament is empowered to make laws regarding items given in union list and also in concurrent list.

The Parliament shall consist of the President of India and two houses namely:

The Rajya Sabha and

The Lok Sabha

The Rajya Sabha is also known as the Council of states. It is the upper house.

Composition of Rajya Sabha

The total membership of Rajya Sabha shall not exceed 250. Current strength is 245.

Out of the total members in Rajya Sabha, 12 members are nominated by the President with special knowledge or experience in the field of science, literature, arts or social service. Then 238 members are representatives of states and union territories in India and these members are

elected by an electoral college comprising of MLAs of the respective states and union territories. Rajya Sabha is a permanent house which is not subject to dissolution or abolition. However 1/3rd of its total members get retired in every second year. The tenure of a Rajya Sabha member is 6 years. The Ex- Officio chairman of Rajya Sabha is the Vice- President of India who is a non member of the house. Thus Rajya Sabha is the only legislative house which is presided over by a non member.

Lok Sabha or House of People is the lower house of the Parliament. The total strength of the house shall not exceed 550. Currently 543 members are there, out of which 530 members are elected directly by the people through general election. There are 13 members to represent union territories. Till the year 2020, the President of India was empowered to nominate 2 members from Anglo-Indian community. The practice got discontinued through 104th amendment, 2020. Tenure of Lok Sabha is 5 years. However during national emergency, the President may extend the term of Lok Sabha by one year at a time.

The qualifications and disqualifications of the members of Parliament

Qualifications for membership of Parliament

To be elected as a Member of Parliament, the person must be

1. Citizen of India.
2. Not less than 30 years of age in the case of Rajya Sabha and not less than 25 years in the case of Lok Sabha.
3. Possessing such other qualifications as may be prescribed by the Parliament by law.

Disqualifications

Disqualifications under Constitution (Article 84)

1. A person holding an office of profit
2. A person who is of unsound mind and declared so by a competent court
3. An undischarged insolvent.
4. A person who relinquished Indian citizenship or voluntarily acquired the citizenship of a foreign Country.

Disqualifications under Representation of Peoples Act 1950

1. Corrupt practices in an election
2. Conviction for an offence resulting in imprisonment of two years or more.
3. Failure to lodge accounts of election expenditure with the Election Commission.
4. Having an interest in a govt. contract.
5. Dismissal from Govt. service
6. Absence from the sessions of Parliament for a continuance period of 60 days or more without permission of the house.

Some terms connected with Parliament.

Adjournment

If the presiding officer suspends the work of either Rajya Sabha or Lok Sabha it is known as adjournment.

Prorogation

If the President of India puts an end to the sessions of Rajya Sabha or Lok Sabha, it is known as prorogation.

Quorum

The minimum number of members to constitute a meeting of Rajya Sabha or Lok Sabha is known as quorum. 1/10th of the total membership of Rajya Sabha or Lok Sabha is regarded as the quorum.

Joint session

A joint session of Parliament can be summoned by president of India and usually the joint session will be presided over by the speaker of Lok Sabha.

2. The state legislature

By virtue of Art.168, there shall be a legislature for every state .A state legislature can enact laws regarding items given in state list and also concurrent list in schedule VII. It shall consist of the Governor and the State Legislative Assembly. In some states there will be an additional house called Legislative council.

Legislative assembly:

Legislative Assembly is also known as Vidhan Sabha. In a bi cameral state legislature (state legislature with both legislative assembly and council) legislative assembly is the lower house.

It shall consist of not more than 500 and not less than 60 member.

However in micro states like Mizoram, Goa, Sikkim and union territory Puducherry number of MLAs is below 60.

Members of legislative assemblies will be directly elected by the people. Till 2020, the Governor was able to nominate one member from Anglo-Indian community and the practice got abolished through 104th amendment 2020. Tenure of an MLA is 5 years.

Legislative council:

Legislative Council is also known as Vidhan Parishad and it is the upper house. The membership shall not exceed 1/3rd of the total strength of the Legislative Assembly in that state. However the membership shall not be below 40. Legislative Council is not subject to dissolution but can be abolished through an Act of Parliament. The tenure of legislative council member (MLC) is 6 years. Legislative Council is an optional house, usually created by larger states.

Currently there are six states in India with the upper house – Karnataka, Andhra Pradesh, Telangana, Maharashtra, Bihar and Uttar Pradesh.

Composition

1/3rd of the total members in a legislative council are elected by the MLAs in the state.

1/3rd is elected by the members of local bodies such as municipalities, district boards etc.

1/6th is elected by registered graduates and teachers from the state.

1/6th can be nominated by the Governor.

A Legislative Council member can hold his office for a period of 6 years.

1/3rd of total MLCs retire in every second year. Legislative Council is a permanent house which cannot be dissolved but can be abolished through an Act of Parliament.

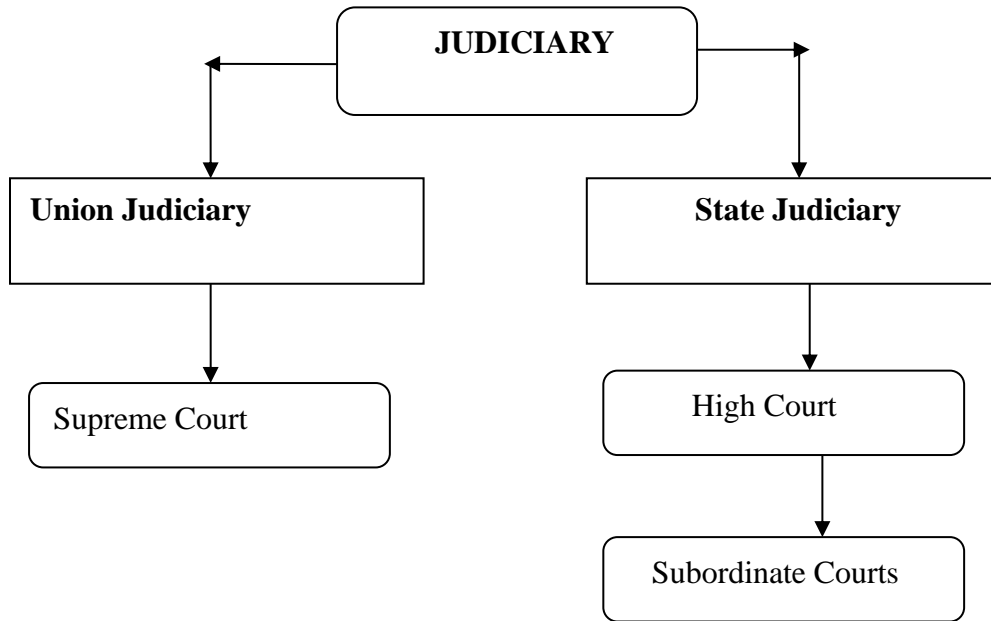
a. The total strength of legislative houses, term and age limit of MPs, MLCs and MLAs.

| Name of house | No. of members | Term of members | Age limit of members |
|----------------------|--|------------------------|------------------------------|
| Rajya Sabha | <ul style="list-style-type: none"> • Not more than 250. | 6 years | Must have attained 30 years. |
| Lok Sabha | <ul style="list-style-type: none"> • Maximum 550 (543 members currently) | 5 years | Must have attained 25 years. |
| Legislative Council | <ul style="list-style-type: none"> • Maximum strength shall not exceed 1/3rd of total strength of legislative assembly of a state. • Minimum 40. | 6 years | Must have attained 30 years. |
| Legislative Assembly | <ul style="list-style-type: none"> • Not more than 500. • Minimum 60 | 5 years. | Must have attained 25 years. |

b. The tenure of houses of parliament and state legislatures.

| Name of the house | Tenure. |
|--------------------------|---|
| Rajya Sabha | Permanent, not subjected to dissolution. |
| Lok Sabha | 5 years. |
| Legislative Council | Permanent, not subjected to dissolution, but can be abolished through an Act. |
| Legislative Assembly | 5 years. |

1. Indian Judiciary



a. Jurisdictions of Supreme Court and High Courts

| Supreme Court | High Court |
|--------------------------------|---------------------------------|
| Original jurisdiction | Original jurisdiction |
| Appellate jurisdiction | Appellate jurisdiction |
| Writ jurisdiction (article 32) | Writ jurisdiction (article 226) |
| Judicial review | Power to transfer cases |
| Judicial activism | Power of superintendence. |

b. Qualifications and term of judges of SC and HCs.

| Court | Qualifications of judges | Term |
|---------------|--|---------------|
| Supreme Court | <ul style="list-style-type: none">• A citizen of India.• A judge of HC for atleast 5 years or• An advocate of HC atleast for a period of 10 years or• A distinguished jurist in the opinion of President. | Till 65 years |
| High Court | <ul style="list-style-type: none">• A citizen of India.• An advocate of HC atleast for a period of 10 years or• 10 years of experience as a judicial officer in India. | Till 62 years |

Supreme Court of India - “The ultimate interpreter of Indian Constitution”.

The Supreme Court of India is apex court in the Indian judicial system and termed as the ultimate interpreter of the constitution. It is also termed as the guardian of Constitution. It has got many jurisdictions.

Jurisdictions of Supreme Court of India

Original jurisdiction- This jurisdiction empowers the Sc to hear a case in the first instance.

Appellate jurisdiction - Supreme court can hear appeals preferred against judgments made by High Courts .The decision taken by supreme court on an appeal is final hence it is regarded as the highest court of appeal.

WRIT jurisdiction- Article 32 confers vast powers on the SC to protect the fundamental rights of the people and provide remedial measures in the form of Writs namely Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo Warranto.

Advisory jurisdiction – This jurisdiction can be invoked by the President of India in case of an ambiguity regarding a question of law or question of facts.

Power to review judgments - Using this jurisdiction SC can review its own judgment and rectify mistakes if any.

Power to transfer cases - If a case pending before a subordinate court involves a constitutional interpretation or a matter of general importance, it can be transferred to SC and can be adjudicated.

Over-ruling power – The decision made by SC is binding on all subordinate courts. But SC is not bound by its earlier decision. SC deviating from its on earlier decision and enunciating a new legal principle is known as over ruling.

Judicial review – By virtue of Article 13, SC is empowered to review the laws made by the legislatures. If a law or any provision there under is abridging the fundamental rights SC can invalidate the same, terming it as un- constitutional.

Various jurisdictions available to High Courts

Article 214 of the Constitution deals with High Courts. A High Court has various jurisdictions namely the original jurisdiction, appellate jurisdiction, WRIT jurisdiction, advisory jurisdiction, power of review, power to transfer cases, power to punish for contempt of court and power of superintendence. High court can exercise its original jurisdiction in matters related to election petition, admiralty etc. It can also consider appeals preferred against the judgments made by various subordinate courts in the states. Article 226 confers vast powers on the HC to protect the fundamental rights of the people and provide remedial measures in the form of Writs namely Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo Warranto. It can also provide advice to the state government and governor. High Courts can supervise the functioning of other lower courts in the state.

The qualifications and tenure of Supreme Court judges and High Court judges.

Article 124 of the Constitution contains the provisions related to the Supreme Court of India. SC contains Chief Justice of India and such other judges appointed by the President.

Qualifications of SC judges:

1. A person with 5 years of experience as a High Court judge
2. A person with 10 years of experience as a High Court advocate
3. A person who is a distinguished jurist in the opinion of President of India.
4. The person should be a citizen of India.

Tenure: A SC judge can hold his office till he attains 65 years.

Removal of SC judges

Judges of SC can be removed from their office only on two conditions

1. Proved misbehavior
2. Incapacity.

The process of removal is known as impeachment.

Article 214 of the Constitution contains the provisions related to High Courts. A High Court contains Chief Justice and such other judges appointed by the President.

Qualifications of HC judges:

1. A person with 10 years of experience as a judicial officer in India.
2. A person with 10 years of experience as a High Court advocate
3. The person should be a citizen of India.

Tenure: A HC judge can hold his office till he attains 62 years.

UNIT- 4

- **Emergency provisions**
- **Amendment**

1. Types of Emergency provisions under the Constitution

a. Emergency provisions.

| Type of emergency | Article | Duration | |
|---------------------|---------|----------|--|
| | | Initial | maximum |
| National emergency | 352 | 1 month | <ul style="list-style-type: none">• 6 months at a time.• Can be extended further. |
| State emergency | 356 | 2 months | <ul style="list-style-type: none">• 6 months at a time.• Can be extended only upto 3 years. |
| Financial emergency | 360 | 2 months | <ul style="list-style-type: none">• Continues indefinitely. |

a. Grounds of emergencies

| Type of emergency | Grounds |
|---------------------|---|
| National emergency | <ul style="list-style-type: none">• War• External aggression• Armed rebellion |
| State emergency | <ul style="list-style-type: none">• Political instability• Breakdown of law and order• Corruption and mal administration.• External aggression• Armed rebellion.• While creating new states. |
| Financial emergency | <ul style="list-style-type: none">• A threat to the financial stability of India or any part thereof. |

National Emergency

Article 352 of the Constitution of India deals with the provisions related to national emergency. The President of India can proclaim national emergency with the aid and advice of the cabinet ministers and PM on the following grounds namely:

War

External aggression

Armed rebellion (added through 44th amendment).

Effects: Extension of executive power: the executive power of the central government extends so as to give directions to the state governments.

Extension of legislative powers: the central government can enact laws regarding the matters given in the state list in the 7th schedule.

Term of Lok Sabha can be extended by the President by one year at a time.

All fundamental rights except article 20 and 21 will be suspended.

So far 3 times national emergency has been proclaimed in India.

First proclamation was made in 1962 due to Chinese aggression. Second proclamation was in the year 1971 as a result of Indo- Pak war and the third proclamation was made in 1975 by PM

Indira Gandhi, on the ground of internal disturbance, which was replaced by armed rebellion through 44th amendment.

Duration of National emergency

After the proclamation, the emergency continues for 1 month. Within one month the proclamation has to be adopted by the parliament with special majority. After the adoption the emergency continues for 6 months. It can be further extended through adoption by the parliament.

State emergency

State emergency is also known as President's rule. Article 356 deals with state emergency. President of India can proclaim state emergency based on the report given by the governor showing that the state cannot function according to the provisions of the constitution.

Grounds of proclamation:

- 1) Political instability or hung assembly.
- 2) Breakdown of law and order.
- 3) Corruption and mal administration.
- 4) During the formation of new states.
- 5) During armed rebellion or external aggression against the country.

Duration of state emergency

After the proclamation, the state emergency continues for 2 months. Within 2 months the proclamation has to be adopted by the parliament with simple majority. After the adoption the emergency continues for 6 months. It can be further extended through adoption by the parliament. However the maximum duration of state emergency is 3 years.

Effects:

- 1) The state legislature will be dissolved and the powers will be assumed by the President.
- 2) The president may delegate the power of administration of the state to the Governor.
- 3) Parliament can enact law for the state.
- 4) President may impose control over the expenditure from consolidated fund maintained by the state.
- 5) Executive power of the central government extends in such a way that it can give directions to the states.
- 6) High Courts are not affected by state emergency proclamation and function normally.

Financial Emergency

Article 360 provides the provisions related to financial emergency. If the President of India is satisfied that the financial condition of the country or any state is under crisis, he can proclaim financial emergency.

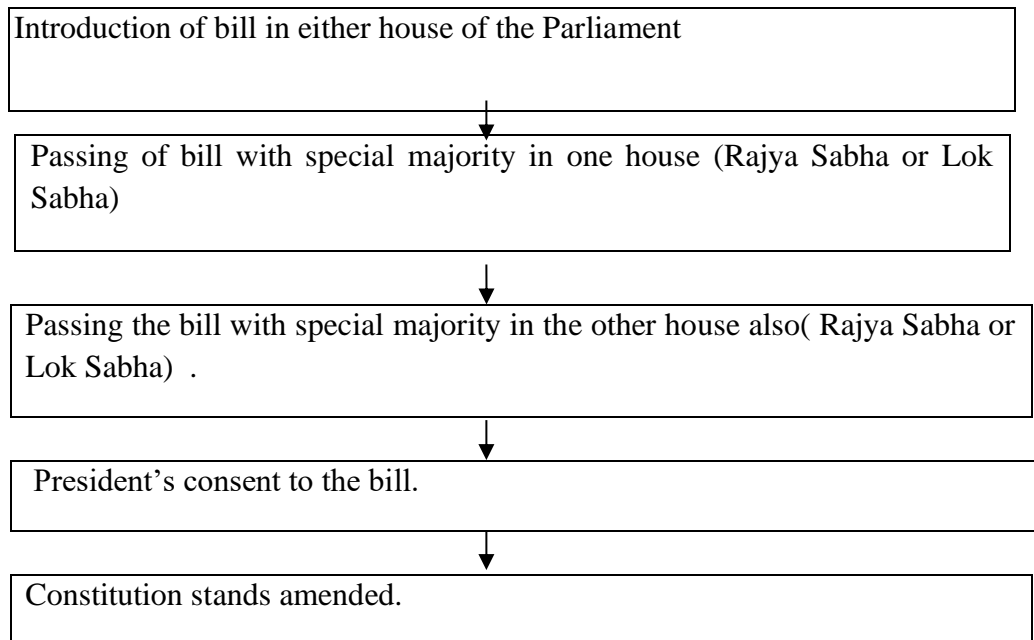
Effects: the central government can give directions to the state legislatures about the financial expenditures. President may give directions to reduce the salaries and other allowances of government employees including SC and HC judges. President may veto a money bill passed by state legislature. President may impose control over the expenditure from consolidated fund maintained by the states.

Duration of financial emergency

After the proclamation, the financial emergency continues for 2 months. Within 2 months the proclamation has to be adopted by the parliament with simple majority. After the adoption the emergency continues indefinitely, till the order of revocation.

2. Amendment.

a. Procedure of amendment.



Significance of amendment

To make the Constitution a dynamic and living document, provisions of amendment have been incorporated into it. Indian Constitution is partly flexible and partly rigid in terms of amendment. Articles can be categorized into three groups based on the method of amendment.

1. Articles that can be amended with simple majority.
2. Articles that can be amended with special majority.
3. Articles that can be amended with special majority and with ratification by more than half of the state legislatures.

Procedure of amendment: Article 368 details the procedure of amendment. According to this provision, parliament can amend the Constitution by way of addition, variation and repeal. An amendment may be initiated in either house of parliament. The bill has to be passed with the needed majority in both houses. Once the bill is passed by the parliament it shall receive the approval of the President.

A. Major Constitutional amendments.

| Amendments | Major changes occurred. |
|-------------------|--|
| 42 nd | <ul style="list-style-type: none">• Amendment of preamble• Introduction of fundamental duties.• Alteration of DPSP• Amendment of 7th schedule. |
| 44 th | <ul style="list-style-type: none">• Removal of right to property from the list of fundamental rights.• Amendment of article 352.• Reduction of the term of state emergency from 1 year to 6 month. |
| 73 rd | <ul style="list-style-type: none">• Constitutional status to Panchayats. |
| 74 th | <ul style="list-style-type: none">• Constitutional status to Municipalities. |
| 76 th | <ul style="list-style-type: none">• Reservation quota in favour of backward class. |
| 86 th | <ul style="list-style-type: none">• Right to education was made a fundamental right (Art 21-A).• Art. 45 – Early childhood care and education of children upto the age of six. |
| 101 st | <ul style="list-style-type: none">• Goods and Services Tax (GST) |
| 104 th | <ul style="list-style-type: none">• Discontinued the Practice of nominating Anglo Indian members to Lok Sabha and Legislative Assembly |

42nd Amendment, 1976: Known as the 'Mini Constitution' or the revision of Indian Constitution. It is also regarded as the most comprehensive and elaborate amendment made so far.

Changes brought through 42nd amendment:

- 1) Altogether 52 articles got affected.
- 2) The terms socialist, secular, and integrity were included in to the Preamble.
- 3) The first ten fundamental duties were incorporated by the inclusion of Article 51-A.
- 4) 7th schedule was amended which contains union list, state list and concurrent list.
- 5) Article 39(A), 43(A) and 48(A) were added into DPSP.

44th Amendment, 1978: Right to property (articles 19(f)) and 31 were eliminated from the list of Fundamental rights.

The term 'Armed rebellion' was included as a new ground for national emergency proclamation. Duration of state emergency has been reduced to 6 months from 1 year.

73rd and 74th Amendments, 1992: By virtue of 73rd and 74th amendments panchayats and municipalities attained constitutional status in India. These amendments mandate the government to establish panchayats and municipal bodies for the effective local self governance

of the country. Democratic decentralization and development of the nation from the grass root level are the purposes behind these systems.

86th amendment, 2002: Article 21-A was incorporated into the Constitution which states that right to education is a fundamental right.

Article 51(A)(k) was added which contains the 11th fundamental duty.

Article 45 was added into DPSP which directs the state to provide early childhood care and free and compulsory education to children upto the age of 6 years.

101st Amendment, 2017: Introduction of GST (Goods and Services Tax)

103rd Amendment, 2019: 10% reservation for economically backward classes in India.

104th Amendment, 2020 : Abolition of reservation of seats for Anglo – Indian members in Lok Sabha and Legislative Assembly.

105th Amendment, 2021 : Restored the power of state governments to identify the socially and educationally backward classes.

UNIT 5

- **Electoral process**
- **Special provisions in favour of women, children and backward classes**

1. Electoral process.

a. Election commission.

| composition | Tenure | Powers |
|---|--------------------------------------|---|
| The chief election commissioner and two election commissioners. | 6 years or till the age of 65 years. | <ul style="list-style-type: none">• Status of SC judges.• Independent Constitutional body. |

Composition and powers of Election Commission of India

Article 324 of the Constitution contains the provisions related to Election Commission of India. Election commission of India is an independent constitutional body responsible for the conduct of free and fair elections in the country. It consists of three members, the chief election

commissioner and two election commissioners appointed by the President of India. The chief election commissioner is the chairman of the commission. Chief election commissioner and other election commissioners enjoy the status of Supreme Court judges. The conditions of service cannot be varied to the disadvantage during the tenure. The election commissioners and regional election commissioners shall be removed only in consultation with the chief election commissioner. The term of office is 6 years or till the attainment of 65 years whichever is earlier.

Functions of Election Commission of India

Conduct of election to the office of President

Election to the office of Vice- President

Lok Sabha and state legislative assembly elections

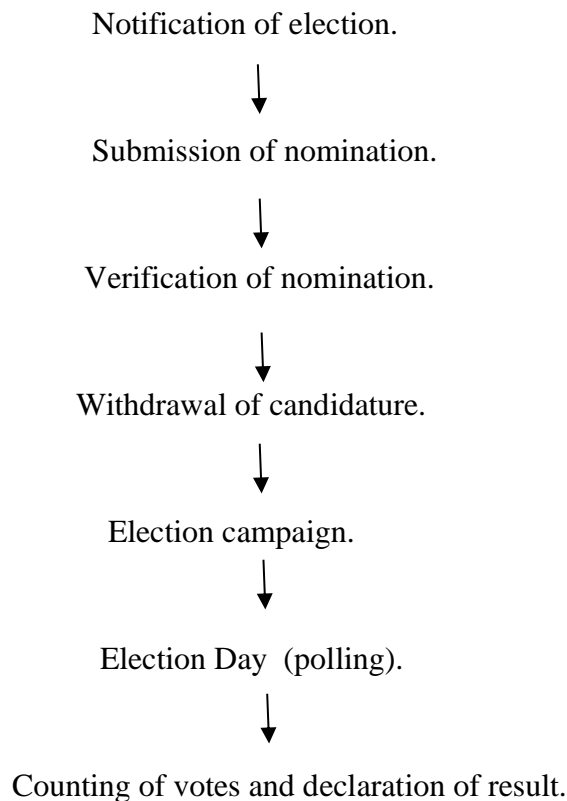
Election commission can advise President regarding the disqualifications of MPs and MLAs and also about the appointment of regional election commissioners

Allotment of voting symbols to the political parties

Preparation and maintenance of electoral rolls.

Counting of votes and declaration of results.

Various steps in the process of election.



Procedure of Election:

Notification of election date – Date of parliamentary elections will be notified by the ECI in consultation with President of India and Legislative Assembly elections in consultation with the governors.

Filing of nominations – Candidates indenting to participate in the election can submit the duly filled nominations to the returning officer with the prescribed fees. If the candidate secures more than $\frac{1}{6}^{\text{th}}$ of the total valid votes cast in the election, the deposit amount will be refunded.

Verification of nominations – On the date fixed for verification of nominations, the candidates and their election agents shall present before the returning officer and verify the nominations filed. Candidates can also raise their objections if any. After verification, the nominations with irregularities will be rejected and the list of eligible candidates will be prepared.

Withdrawal of nominations – On the day fixed for withdrawal a candidate may withdraw his candidature by submitting a letter in writing to the returning officer.

Election campaign – Candidates can conduct election campaigns in the form of processions, rallies, meetings etc. to canvas voters. However the campaign shall come to an end atleast 48 hours from the commencement of actual polling.

Election day- on the day of election voters go to the respective polling booths and cast their votes using Electronic Voting Machines (EVMs) or ballot papers.

Counting of votes and declaration of results.

Universal Adult Franchise: Right to vote is the highest right possessed by a citizen in a democratic country. India is the largest democracy in the world and every citizen of India who attained the age of 18 and whose name is there in the electoral roll can exercise his or her voting right. However grounds like conviction of an offence, unsoundness of mind, corrupt practices in an election, non residence etc. can act as disqualifications to universal Adult Franchise.

2. Special constitutional provisions.

Special provisions for backward classes

Art 340-Appointment of commission by the President of India for investigating about socially and educationally backward classes . (After 105th amendment, 2021 authority to identify the backward classes is with the state governments).

Art 330- reservation of seats in Lok Sabha.

Art 332- reservation of seats in State Legislative Assemblies.

Art 243(D) and 243(T), reservation of seats in panchayats and municipalities respectively.

Art 15(4)- special provisions for the advancement of socially and economically backward classes of people.

Art 16(4)- reservation of appointments in public employment in favour of backward classes.

Art 16(4-A)- reservation of appointments in promotions related to public employment in favour of backward classes.

Art 17 along with Protection of Civil Rights Act 1955 abolishes untouchability.

Art 19(5) imposes reasonable restrictions upon the freedom of movement and freedom of residence to safeguard the interests of Scheduled Tribes.

Art 46- directs the state to take special care about the socio-economic interests of backward classes.

Special provisions for women.

Art 15(3) - empowers the state to take special measures for the protection and upliftment of women.

Art 23- prevents traffic in human being which implies immoral traffic of women.

Art 39-advocates equal pay for equal work for both men and women.

Art 42- directs the state to provide maternity reliefs to women workers.

Art 51(A)(e)- imposes a duty upon the citizens to renounce practices which are derogatory to the dignity of women.

Art 243(D) and 243(T), reservation of seats in panchayats and municipalities respectively.

Special constitutional Provisions in favour of children.

Art 21-A- states that right to education is a fundamental right. It also confers right to free and compulsory education to all children in between the age of 6 to 14 years.

Art 51(A)(k)- imposes a duty upon the citizens who are parents or guardians to provide educational opportunities to their children or wards.

Art 45- early childhood care and free and compulsory education to children upto the age of 6.

Art 24- prevents employment of children in hazardous industries.