

Chapter 1: Constitution: Why and How?

INTRODUCTION

The Indian Constitution provides insights into the structure, functioning, and interrelationships of different government institutions. It enables us to comprehend the fundamental principles that unite these institutions, which are rooted in the Constitution of India.

NEED OF THE CONSTITUTION

- **Fostering Coordination and Guaranteeing Confidence:** The primary role of a constitution is to establish fundamental rules that facilitate coordination among members of a society. It enables a minimum level of organization and cooperation.
 - In a diverse group with varying religious beliefs, professions, and opinions, living together peacefully requires agreed-upon basic rules that are known and enforceable, ensuring coordination and cooperation among members.
- **Allocation of Decision-Making Authority:** The second purpose of a constitution is to determine the allocation of decision-making authority within a society. It outlines the structure and composition of the government.
 - A constitution determines the fundamental rules of governance in a society, including who has the power to make decisions.
 - It addresses the question of who gets to decide and establishes the allocation of authority.
 - The constitution serves as the governing authority that establishes the government.
- **Boundaries and Constraints on Government Authority:** The third purpose of a constitution is to establish boundaries that restrict the extent to which a government can impose its authority on its citizens. These limits are considered fundamental as they define the boundaries that the government must never exceed.
 - Constitutions not only establish the authority to make decisions but also limit the power of government.
 - They protect fundamental rights that citizens possess, ensuring that governments cannot enact unjust or unfair laws that violate these rights.
- **Collective Aspirations and Societal Objectives:** The fourth purpose of a constitution is to empower the government to fulfill the societal aspirations and establish conditions conducive to a just society. It provides a framework for achieving the collective goals and aspirations of the society.
 - While older constitutions primarily focused on allocating decision-making power and limiting government authority, many twentieth-century constitutions, including the Indian Constitution, go beyond this.
 - They provide an enabling framework for governments to address societal aspirations and goals, such as overcoming inequality.
 - The Indian Constitution, for instance, empowers the government to take positive measures for social welfare, reflecting the aspirations of a just society.
- **Defining the Core Identity of a Nation & its people:** A constitution expresses the fundamental identity of a people by establishing a collective political identity based on agreed norms and principles.
 - It provides an overarching framework for pursuing individual aspirations and freedoms while setting moral boundaries.
 - While constitutions vary in form and details, they often reflect conceptions of national identity and the relationship between regions and the central government.

THE POWER AND LEGITIMACY OF A CONSTITUTION

DEFINING CONSTITUTION

- In most countries, a constitution is a compact document consisting of articles that outline how the state should be constituted and the norms it should adhere to.
- The constitution of a country is typically understood as this document, which serves as the supreme law of the land.
- The constitution is the document or set of documents that seeks to perform functions such as:
 - Fostering Coordination and Guaranteeing Confidence
 - Allocation of Decision-Making Authority
 - Boundaries and Constraints on Government Authority
 - Collective Aspirations and Societal Objectives
 - Defining the Core Identity of a Nation & its people

EFFECTIVENESS OF A CONSTITUTION

Several constitutions worldwide exist merely as words on paper, raising concerns about their effectiveness. The effectiveness of a constitution depends on various factors, highlighting the need for practical implementation and adherence to its principles.

PROCESS OF ENACTING A CONSTITUTION

- Constitutions crafted by unpopular or military leaders often remain ineffective, while successful constitutions are born out of popular national movements.
- Examples of successful constitutions include India, South Africa, and the United States, which were created with the involvement of leaders who enjoyed public credibility and could garner broad societal support.
- India's Constitution, although not subjected to a referendum, gained significant public authority due to its consensus-building process and the backing of popular leaders.
- The Constitution's legitimacy stems from the fact that it was drafted by representatives who could negotiate and command respect from diverse sections of society.
- The people's acceptance and adherence to the Constitution contribute to its effectiveness, even without a formal referendum.

CORE CONTENTS OF A CONSTITUTION

- A successful constitution ensures that its provisions give every individual in society a reason to support and comply with it.
- It should prevent the oppression of minority groups and avoid systematically privileging certain members or entrenching power imbalances.
- A constitution must strive to preserve the freedom and equality of all its members, as this enhances its chances of success by providing a framework for pursuing basic justice.

CREATING EQUITABLE INSTITUTIONAL STRUCTURES

- Well-crafted constitutions intelligently fragment power across different institutions to prevent small groups from subverting the constitution and enhancing their own power.
- Horizontal fragmentation of power, as seen in the Indian Constitution, ensures that no single institution gains a monopoly of power, allowing checks and balances to prevent transgressions.
- Intelligent institutional design strikes a balance between authoritative values, norms, and procedures while allowing flexibility to adapt to changing needs and circumstances.
- Successful constitutions, like the Indian Constitution, are described as "living" documents that strike a balance between preserving core values and accommodating necessary changes, ensuring the document's resilience and preventing any single section or group from subverting it.

MAKING OF THE INDIAN CONSTITUTION

HISTORICAL BACKGROUND

- The Constitution of India was formally crafted by the Constituent Assembly, which held its first session on December 9, 1946.
- The Constituent Assembly was elected for undivided India but reassembled as the Constituent Assembly for divided India on August 14, 1947.
- Its members were selected through indirect elections by the members of Provincial Legislative Assemblies established under the Government of India Act, 1935.
- The composition of the Constituent Assembly followed the guidelines proposed by the British Cabinet's committee known as the Cabinet Mission. The provisions of the Mission were:
 - Seats in the Constituent Assembly were allocated based on the population of each Province and Princely State, with a ratio of approximately 1:10,00,000. Provinces elected 292 members, while Princely States were guaranteed a minimum of 93 seats.
 - The distribution of seats within each Province was based on the proportional representation of the three main communities: Muslims, Sikhs, and the general population, in accordance with their respective populations.
 - Members of each community in the Provincial Legislative Assembly elected their representatives using the method of proportional representation with a single transferable vote.
 - The process for selecting representatives from Princely States was to be determined through consultation.

COMPOSITION OF THE CONSTITUENT ASSEMBLY

- Following the Partition on June 3, 1947, members elected from territories that became part of Pakistan were no longer part of the Constituent Assembly.
- The Assembly's size was reduced to 299 members, and the Constitution was adopted on November 26, 1949.
- On January 24, 1950, 284 members were present and signed the final version of the Constitution. It came into effect on January 26, 1950.
- While the Assembly members were not chosen through universal suffrage, efforts were made to ensure its representative nature.
- Representation was provided for members of all religions, and the Assembly included 28 members from the Scheduled Castes.
- The Congress party held the majority, occupying 82% of the seats in the Assembly post-Partition.

THE IMPORTANCE OF DELIBERATIVE PROCESS

- The authority of the Constituent Assembly is derived not only from its broad representation but also from the procedures and values that guided its deliberations.
- Members of the Assembly deliberated with the interests of the entire nation in mind, rather than solely representing their own identity or community.
- Legitimate differences of principle were present, covering essential aspects such as the system of government, relations between states and the center, powers of the judiciary, and property rights.
- Extensive discussions and debates took place on almost every issue, demonstrating the Assembly's commitment to democratic decision-making.
- The Constitution's authority was rooted in the Assembly's engagement in public reason, emphasizing reasoned arguments and principled justifications rather than narrow self-interest.
- The Constituent Assembly's debates and deliberations, documented extensively, hold immense historical significance akin to the French and American revolutions in the context of constitution making.

PROCEDURES

- The Constituent Assembly established eight major Committees, led by individuals like Nehru, Prasad, Patel, and Ambedkar, who held diverse opinions and backgrounds.
- Despite their differences, these leaders collaborated in drafting specific provisions of the Constitution within their respective Committees.
- Drafted provisions underwent extensive debates and discussions within the entire Assembly.
- Consensus-building was a common objective, aiming to ensure provisions benefited the nation as a whole without harming any specific interests.
- While some provisions were subjected to voting, every argument, query, or concern was meticulously addressed in writing.
- The Assembly convened for a duration of 166 days, spanning over two years and eleven months, with transparent sessions open to both the press and the public.

THE INFLUENCE OF THE NATIONALIST MOVEMENT ON THE CONSTITUTION

- No constitution is solely shaped by the Assembly that creates it; it reflects the consensus on key principles inherited from the nationalist movement.
- The Constituent Assembly of India translated the principles inherited from the nationalist movement into the concrete form of the Constitution.
- The nationalist movement's debates on governance, values, and overcoming inequalities greatly influenced the making of the constitution.
- The Objectives Resolution moved by Nehru in 1946 summarized the principles brought by the nationalist movement to the Constituent Assembly.
- The Objectives Resolution encapsulated the aspirations and values that guided the drafting of the Constitution.
- The Constitution institutionalized fundamental commitments such as equality, liberty, democracy, sovereignty, and a cosmopolitan identity, in line with the values of the nationalist movement.
- The Constitution goes beyond being a mere set of rules and procedures; it represents a moral commitment to fulfilling the promises of the nationalist movement.
- The Constitution reflects the collective vision of establishing a government that upholds the ideals and aspirations cherished during the struggle for freedom.

FRAMEWORK OF INSTITUTIONAL ARRANGEMENTS

- A balanced arrangement of government institutions is crucial for the effectiveness of a constitution.
- The Constituent Assembly of India dedicated considerable time to finding the right balance among the executive, legislature, and judiciary.
- The parliamentary form of government and the federal arrangement were adopted to distribute powers between different branches and levels of government.
- The framers of the Constitution were open to learning from the experiences and experiments of other countries.
- Borrowing ideas from different constitutional traditions was not mere imitation, but a thoughtful adaptation to suit Indian problems and aspirations.
- The Constituent Assembly's broad outlook allowed them to incorporate the best practices from around the world and apply them to the Indian context.

PROVISIONS BORROWED FROM OTHER CONSTITUTIONAL ARRANGEMENTS

Constitution	Provisions which were adopted
British constitution	<ul style="list-style-type: none"> • First Past the post system • Parliamentary form of government • Idea of rule of law • Institution of Speaker and his role • Law making procedure
Irish constitution	<ul style="list-style-type: none"> • Directive Principles of State Policy
USA constitution	<ul style="list-style-type: none"> • Charter of Fundamental rights • Power of Judicial review and Independence of Judiciary
Canadian constitution	<ul style="list-style-type: none"> • A quasi federal form of government (Federal government with a strong central government). • The idea of residual powers.

The makers of the Indian Constitution demonstrated wisdom and foresight by creating a document that reflects the fundamental values and aspirations of the nation. This meticulously crafted constitution has not only endured but also become a living reality, unlike many others that have faded away. India's Constitution is unique and has served as an exemplary model for other countries, notably South Africa. The extensive three-year search aimed to strike a delicate balance, ensuring that the institutions established by the Constitution would not be haphazard or temporary but rather capable of accommodating the long-term aspirations of the Indian people. The constitution's enduring success is a testament to its ability to meet the evolving needs of the nation.

QUESTIONS

- Which one of the following statements best captures the role of a constitution in a diverse society?
 - A constitution ensures that all members of a diverse society have the same religious allegiance.
 - A constitution establishes a set of basic rules to enable coordination and assurance among members of a society.
 - A constitution guarantees equal wealth distribution among diverse members of a society.
 - A constitution enforces specific hobbies and tastes among members of a diverse society.

Answer: B

Explanation:

- **Option (b) is correct:** A constitution serves as a foundational document that outlines the fundamental principles, rights, and obligations of a society. It provides a framework for governance and establishes the basic rules that govern the interactions and relationships between individuals and the government. In a diverse society, where people have varying religious allegiances, professions, abilities, hobbies, and preferences, it is essential to have a common set of rules that everyone can abide by. These rules promote coordination and ensure that individuals with different backgrounds and beliefs can coexist peacefully. A constitution does not aim to enforce specific religious allegiances, wealth distribution, or personal hobbies and tastes. **Its primary purpose is to provide a framework for governance and establish a system of laws and principles that promote harmony and coordination within a diverse society.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

2. Consider the following statements about the decision-making powers and functions of a constitution:
1. The constitution addresses the dispute of conflicting preferences by specifying who gets to decide the laws governing the society.
 2. In a monarchical constitution, the people directly vote on each matter as the ancient Greeks did.
 3. The Indian Constitution specifies that Parliament is the sole authority to enact laws and policies.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: One of the essential functions of a constitution is to provide a mechanism for resolving disputes and conflicting preferences regarding the laws that govern society.** It establishes the allocation of decision-making powers and defines the institutions and processes through which laws are created and implemented.
- **Statement 2 is incorrect: In a monarchical constitution, decision-making powers are typically concentrated in the hands of a monarch or ruling family.** The ancient Greek model of direct democracy, where citizens directly voted on each matter, is not characteristic of monarchical systems.
- **Statement 3 is incorrect: While the Indian Constitution designates Parliament as the primary authority to enact laws and policies, it is not the sole authority.** The Indian Constitution also establishes a system of checks and balances, with the judiciary having the power of judicial review and the President having certain legislative powers. However, Parliament is indeed the principal legislative body in India.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

3. Consider the following statements:
1. The constitution of India sets limit on what a government can impose on its citizens.
 2. Fundamental rights specified in a constitution are inviolable and can never be violated by any government.
 3. The content and interpretation of fundamental rights are consistent across all constitutions.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: One of the functions of a constitution is to establish limits on the powers of the government.** These limits ensure that the government does not exceed its authority and infringe upon the rights and freedoms of its citizens.
- **Statement 2 is incorrect: While fundamental rights are meant to provide strong protection to individuals, they are not absolute and can be subject to limitations.** Constitutional rights can be restricted or limited in certain circumstances, such as during times of national emergency or to protect public order, national security, or the rights of others. However, any limitations on these rights must be reasonable, proportionate, and prescribed by law.

- **Statement 3 is incorrect: The content and interpretation of fundamental rights can vary across different constitutions.** Each country's constitution may provide a different set of rights and define them in its own way. The specific rights protected, their scope, and the limitations on those rights can differ based on the historical, cultural, and political context of each country.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

4. Consider the following statements about the role of a constitution in enabling a government to fulfill the aspirations of a society:
1. The Indian Constitution is an example of a constitution that solely limits the power of the government.
 2. Constitutions enable and empower governments to take positive measures to overcome inequalities or deprivations in society.
 3. Aspirations and goals of a society are not addressed in the Directive Principles of State Policy.
- How many of the statements given above are correct?
- a. Only one
 - b. Only two
 - c. All three
 - d. None

Answer: A

Explanation:

- **Statement 1 is incorrect:** The Indian Constitution is an innovative example of a constitution that provides an enabling framework for the government to do positive things and express the aspirations and goals of society. **It goes beyond limiting government power and includes provisions for social welfare and addressing inequalities.**
- **Statement 2 is correct:** The statement best reflects the role of a constitution in enabling a government to fulfill the aspirations of a society. **It highlights the importance of constitutions in empowering governments to address social inequalities and deprivations, allowing them to take positive measures to overcome these issues.**
- **Statement 3 is incorrect: The Directive Principles of State Policy, which are a part of the Indian Constitution, do address the aspirations and goals of society.** They provide guidelines and directives to the government for achieving social justice, equality, and improving the welfare of the people.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

5. Consider the following statements about the role of a constitution in expressing the fundamental identity of a people:
1. The constitution establishes the collective identity of a nation by outlining the basic norms and principles of governance that its citizens agree upon.
 2. Constitutional norms provide a framework for pursuing individual aspirations while also setting authoritative constraints on one's actions.
 3. Constitutions from different countries often share the protection of basic rights and democratic ideals.

4. The national identity of a country is shaped by its constitution, which determines the relationship between different regions and the central government.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: A constitution establishes the collective identity of a nation by outlining the basic norms and principles of governance that its citizens agree upon.** By agreeing to these norms and principles, individuals form a collective identity based on shared values and ideals.
- **Statement 2 is correct: Constitutional norms provide a framework for pursuing individual aspirations, goals, and freedoms.** However, they also set authoritative constraints on one's actions. The constitution defines the fundamental values that individuals should not violate, giving them a moral identity and guiding their behaviour within the established framework.
- **Statement 3 is correct: While constitutions may differ in terms of the form of government and procedural details, they often share the protection of basic rights and democratic ideals.** Most modern constitutions aim to create a form of government that is democratic to some extent and emphasize safeguarding certain fundamental rights.
- **Statement 4 is correct: Different nations embody different conceptions of the relationship between different regions of the nation and the central government.** This relationship, as determined by the constitution, plays a significant role in defining the national identity of a country. For example, the constitution may establish a federal structure with significant autonomy for regions or a centralized structure with more power vested in the central government.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

6. With reference to the authority of a constitution, consider the following statements:

- 1. A constitution is a document or set of documents that outlines how a state is to be constituted and the norms it should follow.
- 2. The United Kingdom has a single document called the Constitution, which specifies the structure and norms of the state.
- 3. Most constitutions around the world are purely symbolic and have no practical impact on people's lives.
- 4. The authority of a constitution lies in its ability to guarantee fundamental rights and freedoms to the citizens.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct: A constitution typically serves as a foundational document that establishes the structure of a state, defines the powers and responsibilities of its government institutions, and lays down fundamental principles and rights.**

- **Statement 2 is incorrect: Unlike many other countries, the United Kingdom does not have a single codified document referred to as the Constitution.** Instead, its constitutional framework is formed by a combination of statutes, common law, conventions, and historical documents.
- **Statement 3 is correct: While it is true that some constitutions may have limited practical impact due to factors such as weak enforcement mechanisms or political circumstances, it is not accurate to claim that most constitutions are purely symbolic.** Many constitutions provide the legal basis for governance, protect fundamental rights, establish the separation of powers, and set out the framework for the functioning of the state.
- **Statement 4 is correct: One of the key functions of a constitution is to protect and guarantee fundamental rights and freedoms to the citizens.** By establishing a legal framework for governance, a constitution provides the authority for safeguarding individual liberties and ensuring that the government operates within defined limits.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

7. With reference to the mode of promulgation of constitutions, consider the following statements:

1. The most successful constitutions are those crafted by military leaders or unpopular leaders who can enforce them forcefully.
2. Constitutions created in the aftermath of popular national movements tend to be successful.
3. The Indian Constitution was subjected to a full-fledged referendum before its adoption.
4. The authority of the people who enact the constitution has no impact on its prospects for success.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: A

Explanation:

- **Statement 1 is incorrect: The most successful constitutions are not crafted by military leaders or unpopular leaders who can enforce them forcefully.** The constitutions crafted by military leaders or leaders who lack popular support often remain defunct because they are unable to carry the people with them.
- **Statement 2 is correct: The most successful constitutions, such as those of India, South Africa, and the United States, were created in the aftermath of popular national movements.** These movements had the ability to mobilize and unite different sections of society, and the constitutions that emerged from these movements carried enormous legitimacy and public authority. **Therefore, constitutions that arise from popular national movements have a higher chance of success because they enjoy broad support and reflect a consensus among the people.**
- **Statement 3 is incorrect: The Indian Constitution was not subjected to a full-fledged referendum before its adoption.** The Indian Constitution was never subjected to such a referendum.
- **Statement 4 is incorrect: The authority of the people who enact the constitution does have an impact on its prospects for success.** The authority and credibility of the people who crafted the constitution play a significant role in determining its success. Constitutions that are crafted by individuals with immense public credibility, who can negotiate and command the respect of a wide cross-section of society, are more likely to be successful. **The Indian Constitution drew enormous legitimacy from the fact that it was drawn up by such people.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

8. Which one of the following statements is correct about the process of constitution-making in Nepal?
- Nepal has had six constitutions since 1948, all of which were granted by the King.
 - The 1990 constitution introduced a multiparty system, but the King retained significant powers.
 - The main issue in Nepal's constitution making was the establishment of an absolute monarchy.
 - The Communist Party of Nepal (Maoist) advocated for a constitutional monarchy with limited powers for the King.

Answer: B

Explanation:

- Option (b) is correct: The 1990 constitution did introduce a multiparty system, allowing for political competition in Nepal. However, the King of Nepal still retained significant powers, holding the final authority in many respects.** This meant that despite the introduction of a multiparty system, the monarchy still had a considerable role in governing the country.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

9. Which one of the following statements is correct about the substantive provisions of a constitution and their impact on societal acceptance?
- A successful constitution should grant permanent majorities the power to govern minority groups.
 - A constitution should systematically privilege certain members of society at the expense of others.
 - A constitution must achieve perfect justice to command allegiance from all groups.
 - The hallmark of a successful constitution is that it provides everyone in society with a reason to support its provisions, ensuring that it preserves their freedom and equality.

Answer: D

Explanation:

- Option (d) is correct:** The constitution should not allow permanent majorities to oppress minority groups or systematically privilege certain members at the expense of others. Instead, a successful constitution should preserve the freedom and equality of all its members, providing a framework for pursuing basic justice. **Therefore, a successful constitution is one that provides everyone in society with a reason to support its provisions, ensuring that it preserves their freedom and equality.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

10. Which one of the following statements about balanced institutional design and the Indian Constitution is correct?
- The Indian Constitution grants unlimited power to a single institution for effective governance.
 - The Indian Constitution lacks checks and balances, allowing any institution to subvert its provisions.
 - The Indian Constitution horizontally fragments power across various institutions and independent bodies.
 - The Indian Constitution is rigid and unable to adapt to changing needs and circumstances.

Answer: C

Explanation:

- **Option (c) is correct: The Indian Constitution ensures that no single institution acquires a monopoly of power by fragmenting power across different institutions like the Legislature, Executive, Judiciary, and independent statutory bodies like the Election Commission.** This fragmentation of power helps in preventing any single institution from subverting the Constitution and allows for checks and balances to be in place.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

11. Consider the following statements about the making of the Indian Constitution:

1. Members of the Constituent Assembly were directly elected by the people.
2. The distribution of seats in the Constituent Assembly was based on the population of each province and princely state.
3. The method of selecting representatives from Princely States was determined solely by the British cabinet's committee, known as the Cabinet Mission.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is incorrect: The members of the Constituent Assembly were not directly elected by the people.** They were chosen through an indirect election process. The members of the Provincial Legislative Assemblies, which were established under the Government of India Act, 1935, were responsible for electing the members of the Constituent Assembly.
- **Statement 2 is correct: The distribution of seats in the Constituent Assembly was indeed based on the population of each province and princely state.** Each province and princely state or group of states were allocated seats in proportion to their respective population, roughly in the ratio of 1:10,00,000. The provinces were to elect 292 members, and the Princely States were allotted a minimum of 93 seats.
- **Statement 3 is incorrect: The method of selecting representatives from Princely States was not solely determined by the British cabinet's committee, the Cabinet Mission. The method was supposed to be determined through consultation.** The representatives from the Princely States were selected based on discussions and consultations among the leaders and rulers of the Princely States, the British government, and the Indian leaders.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

12. Consider the following statements about the composition of the Constituent Assembly:

1. The Constituent Assembly was composed of members elected through universal suffrage.
2. The Constituent Assembly consisted of more than 350 members after the Partition of 1947.
3. A total of 284 members were present on 24th January 1950 when the Constitution was signed.
4. The Congress party held a majority in the Assembly, occupying more than 80% of the seats.
5. The Assembly had representation from all the religions along with the Scheduled Castes.

Which of the statements given above are correct?

- a. 1, 3 and 5 only
- b. 3, 4 and 5 only
- c. 1, 2 and 4 only

- d. 1, 2, 3 and 5 only

Answer: B

Explanation:

- **Statement 1 is incorrect: The Constituent Assembly was not composed of members elected through universal suffrage.** The members were elected through indirect elections by the members of the provincial legislatures.
- **Statement 2 is incorrect: After the Partition of 1947, the number of members in the Constituent Assembly was reduced to 299.**
- **Statement 3 is correct: On 24th January 1950, when the Constitution was signed, a total of 284 members were present in the Constituent Assembly and appended their signature to the Constitution.**
- **Statement 4 is correct: The Congress party dominated the Assembly, occupying as many as 82% of the seats in the Assembly after the Partition.**
- **Statement 5 is correct: The members of all religions were given representation in the Assembly.** Additionally, the Assembly included 28 members from the Scheduled Castes.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

13. Consider the following statements about the Constituent Assembly and its procedures:
1. The Constituent Assembly had a total of six major Committees on different subjects.
 2. Provisions of the Constitution were not subjected to debate by the entire Assembly.
 3. The sessions of the Constituent Assembly were closed-door meetings and not open to the public.
- How many of the statements given above are correct?
- a. Only one
 - b. Only two
 - c. All three
 - d. None

Answer: D

Explanation:

- **Statement 1 is incorrect: The Constituent Assembly had eight major Committees on different subjects, not six.** The committees were chaired by prominent leaders such as Jawaharlal Nehru, Rajendra Prasad, Sardar Patel, or B.R. Ambedkar, who worked together despite their disagreements.
- **Statement 2 is incorrect: Each Committee drafted specific provisions of the Constitution, which were then subjected to debate by the entire Assembly.** This indicates that the provisions of the Constitution were indeed discussed and debated by all members of the Assembly.
- **Statement 3 is incorrect: The sessions of the Constituent Assembly were open to the press and the public.** This means that the meetings were not closed-door and were accessible to both the media and the general public, allowing for transparency and accountability in the constitutional drafting process.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

14. Consider the following statements about the inheritance of the nationalist movement in the making of the Indian Constitution:

1. The nationalist movement's main objective was to create a government based on regional identities rather than a cosmopolitan identity.
2. The nationalist movement primarily focused on achieving economic equality rather than political liberty.

Which of the statements given above is/are correct?

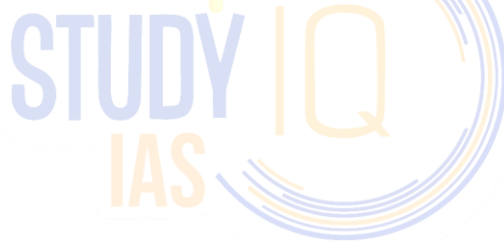
- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: D

Explanation:

- **Statement 1 is incorrect: The nationalist movement aimed to establish a unified and independent India based on principles of national unity and a cosmopolitan identity.** The nationalist leaders sought to overcome divisions based on religion, caste, and regional identities. The nationalist movement emphasized the idea of a united India with a shared national identity rather than one based solely on regional identities.
- **Statement 2 is incorrect: While the nationalist movement did address issues of economic inequality and social justice, it also emphasized political liberty as a key objective.** The movement sought to achieve both political independence from British colonial rule and economic and social reforms to address the inequalities and injustices prevalent in Indian society.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?



15. Consider the following:

1. The sovereignty and territorial integrity of India shall be maintained according to justice and the law of civilized nations.
2. All people of India are guaranteed social, economic, and political justice, equality of status and opportunities, and fundamental freedoms subject to law and public morality.
3. The Objectives Resolution primarily focuses on the promotion of world peace by contributing towards UN peacekeeping operations.

How many of the above statements are included in the main points of the Objectives Resolution adopted by India?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: The sovereignty and territorial integrity of India shall be maintained according to justice and the law of civilized nations.** This is reflected in the resolution's statement that the territorial integrity of the Republic and its sovereign rights on land, sea, and air shall be maintained according to justice and the law of civilized nations.

- **Statement 2 is correct: All people of India are guaranteed social, economic, and political justice, equality of status and opportunities, and fundamental freedoms subject to law and public morality.** This is reflected in the resolution's statement that all people of India shall be guaranteed and secured social, economic and political justice; equality of status and opportunities and equality before law; and fundamental freedoms - of speech, expression, belief, faith, worship, vocation, association, and action - subject to law and public morality.
- **Statement 3 is incorrect: The Objectives Resolution does not primarily focus on the promotion of world peace by contributing towards UN peacekeeping operations.** While the resolution expresses a commitment to the promotion of world peace and the welfare of mankind, it does not specifically mention UN peacekeeping operations as its primary focus.

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16. Consider the following statements:

1. The effectiveness of a constitution depends on a balanced arrangement of its institutions.
2. The Constituent Assembly of India adopted the parliamentary form and federal arrangement for the distribution of governmental powers.
3. The Constituent Assembly of India was limited to considering only indigenous ideas and did not look for inspiration from other constitutional traditions.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: A balanced arrangement of institutions is necessary for the effectiveness of a constitution.** The Constituent Assembly spent a lot of time to find the right balance among the institutions of government, such as the executive, the legislature, and the judiciary.
- **Statement 2 is correct: The Constituent Assembly adopted the parliamentary form and federal arrangement.** This means that governmental powers were distributed between the legislature and the executive, as well as between the states and the central government.
- **Statement 3 is incorrect: The framers of the Indian Constitution were not limited to considering only indigenous ideas.** They were open to learning from experiments and experiences of other countries and borrowed provisions from different constitutional traditions. However, each provision had to be justified based on its suitability to Indian problems and aspirations. The framers did not blindly imitate, but rather adapted ideas to fit the Indian context.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?

17. Consider the following pairs:

	Borrowed Provisions in the Constitution	Country
1.	First Past the Post System	France
2.	Judicial Review	United States of America
3.	Residual Powers	Britain

How many of the above pairs are correctly matched?

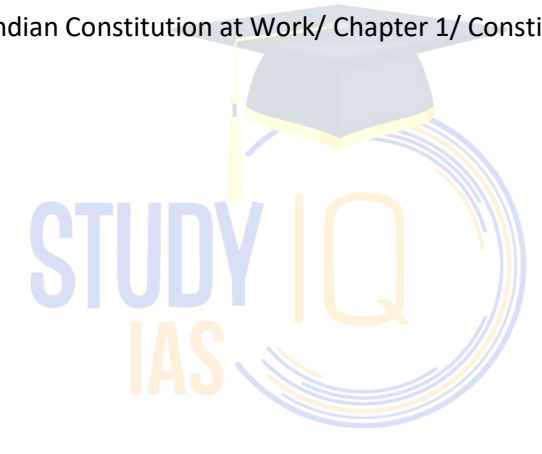
- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Pair 1 is incorrectly matched: The First Past the Post electoral system was borrowed in the Indian Constitution from the United Kingdom, not France.** In this system, the candidate who receives the most votes in a constituency wins the election.
- **Pair 2 is correctly matched: Judicial review is a constitutional principle that originated in the United States.** It refers to the power of the judiciary to review the actions of the legislative and executive branches of government and determine their constitutionality. The United States is well-known for its system of judicial review, where the Supreme Court has the authority to declare laws or government actions unconstitutional.
- **Pair 3 is incorrectly matched: Residual powers refer to powers that are not specifically assigned to any level of government in a federal system. In the context of the United Kingdom, which has a unitary system rather than a federal system, there is no concept of residual powers. The idea of residual power was borrowed from Canadian Constitution.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 1/ Constitution: Why and How?



Chapter 2: Rights in the Indian Constitution

INTRODUCTION

A constitution not only outlines the structure of government but also establishes limits on government powers and ensures the protection of democratic rights. The Indian Constitution contains Fundamental Rights, which are listed in Part III, and these rights have evolved and expanded over time.

IMPORTANCE OF RIGHTS

Case Study 1: Construction workers who were denied their rights

- In 1982, during the construction of the Asian Games facilities, contractors hired numerous impoverished construction workers from different parts of the country.
- These workers were subjected to harsh working conditions and paid less than the government-mandated minimum wages.
- Recognizing this violation of workers' rights, a team of social scientists petitioned the Supreme Court, arguing that such employment practices amounted to forced labor, which infringed upon the Fundamental Right against exploitation.
- The court acknowledged this plea and instructed the government to ensure that the workers received the appropriate wages for their labor.

Violation of right against Exploitation: This case study exemplifies a violation of constitutional rights, which was subsequently challenged in court. As a result, the workers were able to obtain the wages that were rightfully due to them. The constitutional guarantee of the right against exploitation played a vital role in ensuring justice for these workers.

Case Study 2: A citizen who wasted his 54 years of his life due to lack of proper trial.

- Machal Lalung, a resident of a village in Assam, was arrested at the age of 23 on charges of causing grievous injuries.
- Due to his mental instability, he was deemed unfit to stand trial in starting but after the treatment doctors declared him fit for trial twice, but no action was taken by the authorities.
- Machal remained in judicial custody for 54 years without his case being heard.
- In July 2005, Machal Lalung was released at the age of 77 after the National Human Rights Commission intervened following an inspection of undertrials in the state.
- His entire life was wasted as a result of the lack of a proper trial.

Lack of right to a fair and speedy trial: This case highlights the importance of the right to a fair and speedy trial, which is guaranteed by the Constitution but was not effectively provided in this situation. It serves as an example of the consequences when constitutional rights are not upheld in practice.

BILL OF RIGHTS

- In a democracy, it is important to protect the rights of individuals.
- Many democratic countries include a list of rights in their constitution, known as a **"bill of rights."**
- A **bill of rights prohibits the government from violating the rights of individuals** and provides remedies for violations.
- The **constitution protects the rights of individuals:**
 - From person or private organization.
 - From the organs of the government such as the legislature, executive, bureaucracy or even the judiciary.

- The government has a **responsibility to protect and uphold the rights of individuals**, while also being capable of potentially violating those rights through its various organs.

FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION

Evolution of Fundamental Rights in India

- The leaders during India's freedom struggle, recognized the significance of rights and demanded that the British rulers respect the rights of the people.
- **In 1928, the Motilal Nehru committee** had called for a bill of rights.
- When India gained independence there was unanimous agreement on the inclusion and protection of rights. The Constitution listed these rights as "fundamental rights" that would receive special protection.

Importance of Fundamental Rights

- **Constitutional Protection:** Fundamental Rights are specifically listed and protected in the Constitution. Constitution ensures special provisions for their protection.
- **Distinction from Ordinary Rights:** Fundamental Rights differ from ordinary legal rights, as they are protected and guaranteed directly by the constitution, while ordinary rights are enforced by ordinary laws.
- **Constitutional Amendment:** Fundamental Rights can only be changed through the process of amending the Constitution itself, providing them with a higher level of protection.
- **Protection from Government Violations:** No organ of the government is allowed to act in a manner that violates Fundamental Rights, and the judiciary has the responsibility to safeguard these rights from government actions.
- **Judicial Oversight:** The judiciary has the power to declare executive and legislative actions illegal if they violate or unreasonably restrict Fundamental Rights.
- **Limited Rights:** Fundamental Rights are not absolute or unlimited, as the government can impose reasonable restrictions on their exercise.

Part III: Fundamental Rights

Right to Equality

- Equality before law
 - equal protection of laws
- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
 - equal access to shops, hotels, wells, tanks, bathing ghats, roads etc.
- Equality of opportunity in public employment
- Abolition of Untouchability
- Abolition of titles

Right to Freedom

- Protection of Right to
 - freedom of speech and expression;
 - assemble peacefully;
 - form associations/unions;
 - move freely throughout the territory of India;
 - reside and settle in any part of India;
 - practise any profession, or to carry on any occupation, trade or business.
- Protection in respect of conviction for offences
- Right to life and personal liberty
- Right to education

- Protection against arrest and detention in certain cases

Right against Exploitation

- Prohibition of traffic in human beings and forced labour
- Prohibition of employment of children in hazardous jobs

Right to Freedom of Religion

- Freedom of conscience and free profession, practice and propagation of religion
- Freedom to manage religious affairs
- Freedom to pay taxes for promotion of any particular religion
- Freedom to attend religious instruction or worship in certain educational institutions

Cultural and Educational Rights

- Protection of language, culture of minorities
- Right of minorities to establish educational institutions

Right to Constitutional Remedies

- Right to move the courts to issue directions/orders/writs for enforcement of rights

RIGHT TO EQUALITY

Right to equality strives to make India a true democracy by ensuring a sense of equality of dignity and status among all its citizens.

- **Equal Access:** The right to equality ensures equal access to public places, such as shops, hotels, places of entertainment, wells, bathing ghats, and places of worship, without discrimination based on religion, race, caste, sex, or place of birth.
- **Prohibits discrimination in Public Employment:** The right to equality prohibits any discrimination in public employment on the basis of religion, race, caste, sex, or place of birth.
- **Abolition of Untouchability:** The practice of untouchability, one of the crudest manifestations of inequality, has been abolished under the right to equality.
- **Conferment of Titles:** It provides that the state shall confer no title on a person except those who excel themselves in military or academic field.

The Preamble of the Constitution mentions equality of status and equality of opportunity as key aspects of equality.

- **Equality of opportunity:** Equality of opportunity means that all sections of the society enjoy equal opportunities.
 - In a society with various social inequalities, to achieve equal opportunity the **government can implement special schemes** and measures **to improve the conditions of certain sections of society**, such as children, women, and the socially and educationally backward classes.
- **Reservation**
 - The constitution explicitly clarifies that policies like reservations in jobs and admissions, as mentioned in Article 16(4), do not violate the right to equality.
 - Reservations are seen as necessary for the fulfillment of the right to equality of opportunity as per the spirit of the Constitution.

RIGHT TO FREEDOM

- **Equality and freedom** are identified as the **two most essential rights in a democracy** and these are interconnected and cannot be separated from each other.
- **Liberty** refers to the **freedom of thought, expression, and action**.

- **Liberty does not imply the freedom to do anything one desires.** Certain limitations are necessary to ensure that everyone can enjoy their freedom without threatening the freedom of others or endangering law and order.
- Freedoms are defined in a way that allows individuals to exercise their rights while considering the well-being of others and maintaining social order.

RIGHT TO LIFE AND PERSONAL LIBERTY

- It is considered the foremost right among freedoms.
- **No citizen can be deprived of their life** except through a legally established procedure.
- **Protection of Personal Liberty:** No one can be deprived of their personal liberty without being informed of the grounds for their arrest.
- If a person is arrested, they have the **right to defend** themselves with a lawyer of their choice. The police must present the arrested person **before a magistrate within 24 hours** for a determination of the justification of the arrest.
- **Wider Interpretation:** The **right to life and personal liberty** encompasses more than just protection against loss of life. Supreme Court judgments have expanded its scope to include the right to live with human dignity and freedom from exploitation.
- SC has held that the right to life includes the right to shelter and livelihood, as individuals cannot live without the means of living.

PREVENTIVE DETENTION

- Preventive detention allows for the arrest and imprisonment of individuals based on the apprehension that they may engage in unlawful activity, without committing a specific offense.
- The government can detain or arrest individuals if it believes they pose a threat to law and order or national peace and security.
- It can only be extended for a maximum period of three months. After three months, the case of preventive detention must be reviewed by an advisory board.
- **Misuse and Concerns:**
 - Preventive detention has been subject to misuse by the government. Many argue that there should be stricter provisions to prevent misuse of this law against individuals for unjustified reasons.
 - The provision for preventive detention creates a tension between the right to life and personal liberty of individuals and the government's power to detain them without a specific offense.

RESTRICTIONS ON RIGHTS

The rights under the right to freedom are not absolute and can be subject to restrictions imposed by the government.

- **Freedom of Speech and Expression:** Freedom of speech and expression is subject to restrictions such as public order, peace, and morality.
- **Freedom to Assemble:** The freedom to assemble must be exercised peacefully and without arms. The government may impose restrictions, declaring the assembly of five or more persons as unlawful.
- **Potential for Misuse:** The powers to impose restrictions can be misused by the administration, leading to the denial of permission for genuine protests against government acts or policies.

RIGHTS OF ACCUSED

- The Constitution ensures that individuals accused of various offences are **considered innocent until proven guilty by a court of law**.
 - Being charged with an offence does not automatically make someone guilty.

- **To ensure a fair trial in courts**, the Constitution has provided three rights:
 - No person would be punished for the same offence more than once.
 - No law shall declare any action as illegal from a backdate.
 - No person shall be asked to give evidence against himself or herself.

RIGHT AGAINST EXPLOITATION

These provisions in the Constitution aim to protect individuals from various forms of exploitation, such as forced labor, slavery, human trafficking, and child labor.

- **Prohibition of Forced Labor:** The Constitution prohibits forced labor or begar, which is the practice of forced labor without payment.
 - This form of exploitation, historically imposed by landlords and wealthy individuals, is now considered a crime and punishable.
- **Prohibition of Slavery and Human Trafficking:** The buying and selling of human beings and using them as slaves is strictly prohibited under the Constitution. This form of exploitation is recognized as a violation of human rights.
- **Eradicating Bonded Labor:** Although some forms of bonded labor still exist, particularly in brick kiln work, it has been declared a crime and punishable.
 - Efforts are being made to eliminate bonded labor and provide protection to those affected.
- **Prohibition of Child Labor:** The Constitution prohibits the **employment of children below the age of 14 years** in dangerous jobs such as factories and mines.
 - With child labor being made illegal and the right to education becoming a fundamental right for children, the right against exploitation has gained significance.

RIGHT TO FREEDOM OF RELIGION

- According to our Constitution, **every individual has the right to follow the religion of their choice**. This freedom is considered a fundamental aspect of democracy.
- Democracy has always **embraced the freedom to practice one's chosen religion as a fundamental principle**. It recognizes that individuals should have the liberty to exercise their religious beliefs without fear of persecution or coercion.

FREEDOM OF FAITH AND WORSHIP

- **Freedom of Conscience and Choice:** In India, individuals have the freedom to choose and practice their religion, including the freedom to follow any religion or no religion at all.
- Freedom of religion also encompasses freedom of conscience.
- **Professing and Propagating Religion:** The freedom of religion includes the right to profess, follow, and propagate any religion. However, this right is subject to limitations imposed by the government to protect public order, morality, and health.
- **Limitation:** The **freedom of religion is not absolute and can be restricted** by the government in certain cases. The government can intervene in religious matters to eradicate social evils, such as banning practices like sati, bigamy, or human sacrifice.
 - Limitations on freedom of religion often lead to tensions between religious followers and the government.
- **Concerning issue:** The Constitution guarantees the right to propagate one's religion, including the freedom to persuade others to convert.
 - However, there may be controversies surrounding conversions, with some people objecting to conversions based on allegations of intimidation or inducement. Forcible conversions are prohibited, and the right to propagate religion only allows the spreading of information about one's religion.

EQUALITY OF ALL RELIGIONS

- As a country with diverse religions, it is crucial for the government to **treat all religions equally**.

- This means that the government should not favor any particular religion and should provide equal opportunities and treatment to individuals of different religions.
- **Absence of Official Religion:** India does not have an official religion. One's religious affiliation does not determine eligibility for top positions such as Prime Minister, President, Judge, or any other public official.
- **Non-Discrimination in Employment:** The right to equality ensures that the government does not discriminate based on religion when it comes to employment.
- State-run institutions **will neither preach any religion or give religious education nor will favour persons of any religion.**
- These provisions aim to uphold and promote the principle of secularism in India.

CULTURAL AND EDUCATIONAL RIGHTS

- India is a diverse society with various social sections and minority groups. Therefore, Constitution recognizes one Fundamental right- Right of minorities to maintain their culture, which includes religious, linguistic, and cultural aspects.
- **Definition of Minorities:** Minorities are groups that have common language or religion and in a particular part of the country or in the country as a whole, they are outnumbered by some other social section.
 - Minority status is not limited to religious groups; it also includes linguistic and cultural minorities.
 - Minorities have the right to conserve and develop their own culture, language, and script.
- **Educational Rights:** All minorities, whether religious or linguistic, have the right to establish and manage their own educational institutions.
 - The government must not discriminate against minority educational institutions when granting aid on the basis that it is under the management of minority community.

RIGHT TO CONSTITUTIONAL REMEDIES

- Merely listing fundamental rights in the Constitution is not enough; there must be a mechanism to realize and defend these rights.
- The **right to constitutional remedies** enables citizens to **approach the High Court or Supreme Court** to seek the restoration of violated fundamental rights.
 - This right is considered crucial and is referred to as the "**heart and soul of the constitution**" by Dr. Ambedkar.
 - The **Supreme Court and High Courts have the authority to issue orders** and directives to the government to ensure the enforcement of fundamental rights.
- Constitutional remedies provide a means for citizens to protect and restore their violated fundamental rights through legal recourse.

VARIOUS SPECIAL ORDERS, KNOWN AS WRITS, CAN BE ISSUED BY COURTS

- **Habeas Corpus:** The court orders that the arrested person should be presented before it. It can also order to set free an arrested person if the manner or grounds of arrest are not lawful or satisfactory.
- **Mandamus:** When the court finds that a particular office holder is not doing legal duty and thereby is infringing on the right of an individual.
- **Prohibition:** It is issued by a higher court (High Court or Supreme Court) when a lower court has considered a case going beyond its jurisdiction.
- **Quo Warranto:** If the court finds that a person is holding office but is not entitled to hold that office. It restricts that person from acting as an office holder.
- **Certiorari:** The court orders a lower court or another authority to transfer a matter pending before it to the higher authority or court.

Apart from the judiciary, many other mechanisms have been created for the protection of rights such as the National Commission on Minorities, the National Commission on Women, the National Commission on Scheduled Castes, etc.

NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

- The implementation of constitutional rights is crucial, especially for marginalized groups.
- Independent organizations like **Union for Civil Liberties (PUCL)** or **People's Union for Democratic Rights (PUDR)** act as watchdogs to protect rights.
- In this background, the government **established the National Human Rights Commission (NHRC) in 1993**, comprising-
 - a former chief justice of the Supreme Court of India,
 - a former judge of the Supreme Court,
 - a former chief justice of a High Court and
 - two other members who have knowledge and practical experience in matters relating to human rights.
- **NHRC's functions** include:
 - conducting inquiries into human rights violations,
 - visiting jails, and
 - promoting research.
- It receives thousands of complaints annually, **covering issues such as custodial death, rape, disappearances, and police excesses.**
- While the **NHRC lacks prosecutorial power**, it can **make recommendations to the government** or courts based on its inquiries.
- Notable interventions include cases related to disappeared youth in Punjab and the investigation of Gujarat riot cases.

DIRECTIVE PRINCIPLES OF STATE POLICY (DPSP)

Policymakers wanted some policy direction to address challenges in achieving equality and well-being for all citizens. At the same time, they did not want future governments to be bound by certain policy decisions. Therefore, they introduced Directive Principles of State Policy (DPSP).

- **Non-Legally Enforceable:** These guidelines are not legally enforceable, meaning they cannot be brought to court for implementation.
- **Non-Justiciable:** They are non-justiciable, meaning they cannot be enforced by the judiciary.
- **Moral Force:** The moral force behind these guidelines was expected to encourage government compliance.
- **Government Responsibility:** The government is expected to take these guidelines seriously and be held accountable by the people.
- **Separate List:** The guidelines are included in a separate list called the Directive Principles of State Policy.

DPSP Contains:

- the goals and objectives that we as a society should adopt.
- certain rights that individuals should enjoy apart from the Fundamental Rights.
- certain policies that the government should adopt.

DPSPs implementation

- The governments passed several **zamindari abolition bills, nationalized banks, enacted numerous factory laws, fixed minimum wages and promoted cottage and small industries** and made provisions for reservation for the uplift of the scheduled castes and scheduled tribes.
- Several efforts to give effect to the Directive Principles include the **right to education, formation of Panchayati raj institutions all over the country, the mid-day meal scheme** etc.

DPSP

Goals

- Welfare of the people; Social, economic and political justice;
- Raising the standard of living; equitable distribution of resources;
- Promotion of international peace

Policies

- Uniform civil code;
- Prohibition of consumption of alcoholic liquor;
- Promotion of cottage industries;
- Prevention of slaughter of useful cattle;
- Promotion of village panchayats

Non-justiciable rights

- Adequate livelihood;
- Equal pay for equal work for men and women;
- Right against economic exploitation;
- Right to work;
- Early childhood care and education to children below the age of six years

FUNDAMENTAL DUTIES OF CITIZENS

- The **42nd amendment** to the Constitution in **1976** introduced a list of Fundamental Duties of Citizens.
- These include **abiding by the Constitution, defending the country, promoting harmony, and protecting the environment.**
- In all, **ten duties** were enumerated.
- However, the Constitution **does not say anything about enforcing** these duties.
- It is important to note that the **enjoyment of rights is not dependent on fulfilling these duties**, so the **inclusion of fundamental duties has not changed the status of fundamental rights.**

RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

Fundamental Rights and Directive Principles of State Policy have a complex relationship, which can be understood as follows:

- **Complementary Nature:** Fundamental Rights and Directive Principles are seen as complementary to each other.
 - While Fundamental Rights protect the rights of individuals, Directive Principles aim to promote the welfare and well-being of the entire society.
- **Restraining vs Exhorting:** Fundamental Rights restrain the government from taking certain actions that may infringe upon individual rights, while Directive Principles exhort the government to take certain actions for the betterment of society.

Conflict between FR's and DPSP

- There can be instances where the implementation of Directive Principles may clash with the exercise of Fundamental Rights. In such cases, striking a balance between individual rights and societal welfare becomes a challenge.
 - Example:** The conflict of **abolishing the zamindari system**. The measures to abolish zamindari were opposed on the grounds of violating the **right to property**, highlighting the conflict between individual rights and the societal need for land reforms.
 - Government's Argument:** The government argued that Fundamental Rights can be abridged or limited to give effect to Directive Principles, emphasizing that individual rights should not hinder the welfare of the people as a whole.
 - Judicial Stand:** The judiciary took the stance that Fundamental Rights are of utmost importance and should not be compromised, even in the pursuit of implementing Directive Principles. It held that **Fundamental Rights are sacrosanct and cannot be curtailed** for the sake of achieving Directive Principles.
- Constitutional Amendment Debate:**
 - The controversy extended to the amendment of the Constitution itself.
 - The government contended that Parliament has the power to amend any part of the Constitution, including Fundamental Rights.
 - However, the **court asserted that Parliament cannot make amendments that violate the basic features of the Constitution**, including Fundamental Rights.
- Settlement in Kesavananda Bharati Case:** The Supreme Court settled the controversy in the landmark Kesavananda Bharati case by ruling that **there are certain fundamental features of the Constitution that cannot be altered or changed by Parliament**, safeguarding the sanctity of Fundamental Rights.

Points to remember

- Bill of rights in the South African Constitution:** The South African Constitution was inaugurated in December 1996. The South African Constitution says that its "Bill of Rights is a cornerstone of democracy in South Africa". It forbids discrimination on the grounds of "race, gender, pregnancy, marital status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, language and birth".
- Jotirao Phuley** (1827-1890) was a radical social reformer from Maharashtra.

QUESTIONS

- Consider the following statements regarding Fundamental Rights in the Indian Constitution:
 - Fundamental Rights in the Indian Constitution are specially protected rights listed separately from ordinary legal rights.
 - Fundamental Rights can be changed by the legislature through ordinary law-making processes.
 - The judiciary has the power and responsibility to protect Fundamental Rights from violations by the government.
 - Fundamental Rights in the Indian Constitution are absolute.

Which of the statements given above is/are correct?

- 1 and 3 only
- 1, 2 and 4 only
- 2 and 4 only
- 3 only

Answer: A

Explanation:

- **Statement 1 is correct: Fundamental Rights in the Indian Constitution are specifically mentioned and given special protection.** They are considered essential and fundamental to the rights and freedoms of the people.'
- **Statement 2 is incorrect: Fundamental Rights cannot be changed by the legislature through ordinary law-making processes.** They can only be changed by amending the Constitution itself. This ensures that the protection of these rights is not easily modified or compromised.
- **Statement 3 is correct: The judiciary in India has the power and responsibility to safeguard Fundamental Rights from violations by the government.** If any executive or legislative action is found to be in violation of these rights, the judiciary can declare such actions illegal and provide necessary remedies.
- **Statement 4 is incorrect: Fundamental Rights in the Indian Constitution are not absolute and unlimited rights.** The government can impose reasonable restrictions on the exercise of these rights in certain situations, such as for the maintenance of public order, morality, or the sovereignty and integrity of India. These restrictions must be justified and proportionate to the situation at hand.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

2. Consider the following statements about the Right to Equality:

1. The Right to Equality ensures equal access to public places and prohibits discrimination based on religion, race, caste, sex, or place of birth.
2. The Constitution allows for the implementation of special schemes and measures, such as reservations in jobs and admissions, to improve the conditions of certain sections of society.

Which of the statements given above are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: C

Explanation:

- **Statement 1 is correct: The Right to Equality, as mentioned in the Constitution, guarantees equal access to public places such as shops, hotels, places of entertainment, wells, bathing ghats, and places of worship.** It explicitly prohibits any form of discrimination based on religion, race, caste, sex, or place of birth. This means that individuals cannot be denied entry or treated differently in these public places solely based on these grounds.
- **Statement 2 is correct: The Constitution acknowledges that in a society with various social inequalities, equal opportunity may require the implementation of special schemes and measures to uplift certain sections of society.** These special measures can include reservations in jobs and admissions. These reservations are aimed at addressing historical disadvantages and promoting social justice.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

3. Which one of the following statements best reflects the concept of freedom in a democracy?
- Freedom entails the right to do anything one desires, without any limitations or consequences.
 - Freedom implies complete equality among individuals, irrespective of their actions or choices.
 - Freedom is an inherent right that supersedes the rights of others in a democratic society.
 - Freedom encompasses the right to think, express, and act within the boundaries defined by the law and order situation.

Answer: D

Explanation:

- Option (d) is correct:** The essence of freedom in a democracy is the acknowledgement that freedom comes with certain limitations and responsibilities. **It recognizes that while individuals have the right to think, express, and act, these rights must be exercised within the framework of the law and order situation.** In a democratic society, freedom is not absolute and unrestricted, as it should not infringe upon the rights and freedoms of others or disrupt the overall stability and order of society.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

4. Consider the following statements about the right to life and personal liberty in India:
- The right to life and personal liberty can be denied to a citizen only through a legal procedure.
 - The arrested person has the right to defend themselves with a lawyer of their choice.
 - The police are required to present the arrested person before the nearest magistrate within 24 hours.

How many of the statements given above are correct?

- Only one
- Only two
- All three
- None

Answer: C

Explanation:

- Statement 1 is correct:** According to the Constitution of India, no citizen can be denied their right to life and personal liberty except through a procedure established by law. This means that any deprivation of these rights must be done in accordance with the legal provisions laid down by the government.
- Statement 2 is correct:** When a person is arrested in India, they have the right to consult and be defended by a legal practitioner of their choice. This ensures that the arrested person can adequately present their defense and protect their rights during the legal process.
- Statement 3 is correct:** After an arrest, it is mandatory for the police to present the arrested person before the nearest magistrate within 24 hours. The magistrate, who is an independent judicial authority, will then decide whether the arrest is justified or not. This safeguard helps prevent arbitrary and prolonged detention without judicial oversight.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

5. With reference to preventive detention in the context of law and order, consider the following statements:

1. Preventive detention allows the government to arrest an individual solely based on the suspicion of their potential engagement in unlawful activities, without the need for the person to have committed a specific offense.
2. The maximum duration for preventive detention is one month, after which the case must be reviewed by an advisory board.
3. Preventive detention is solely used as a safeguard to deal with anti-social elements.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: Preventive detention allows the government to arrest an individual solely based on the suspicion of their potential engagement in unlawful activities, without the need for the person to have committed a specific offense.** This means that the government can detain someone if they believe that person may pose a threat to law and order or the peace and security of the nation, even without evidence of a specific crime.
- **Statement 2 is incorrect: The maximum duration for preventive detention is three months.** After three months, the case must be reviewed by an advisory board. This review is intended to ensure that the detention is justified and necessary.
- **Statement 3 is incorrect: Preventive detention can be used as a tool to deal with anti-social elements or subversive individuals, among others. However, it is not solely limited to these categories.** The government can use preventive detention against anyone whom they perceive as a potential threat to law and order or national security.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

6. Consider the following statements about rights:

1. The right to freedom of speech and expression is absolute and not subject to any restrictions.
2. The right to freedom of assembly allows individuals to assemble with arms if they choose to do so.
3. The Constitution guarantees that a person accused of a crime is considered guilty unless proven innocent by the court.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: D

Explanation:

- **Statement 1 is incorrect: The right to freedom of speech and expression is not absolute and is subject to certain restrictions.** These restrictions include concerns related to public order, peace, morality, defamation, incitement to violence, and hate speech, among others. So, the government can impose reasonable restrictions on the exercise of this right.

- **Statement 2 is incorrect: The right to freedom of assembly does not allow individuals to assemble with arms.** The freedom to assemble is to be exercised peacefully and without arms. While individuals have the right to gather and protest peacefully, the use of arms or violence is not protected under this right.
- **Statement 3 is incorrect: The Constitution guarantees the principle of ‘innocent until proven guilty.’ It ensures that a person accused of a crime is considered innocent unless proven guilty by a court of law.** This principle protects individuals from being declared guilty without due process and ensures they have the opportunity to defend themselves in a fair trial.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

7. Which one of the following statements about the right to freedom of religion in India is correct?
- a. The right to freedom of religion allows individuals to practice any religion of their choice without any limitations.
 - b. The government can never interfere in religious matters and is bound to protect the freedom of religion at all costs.
 - c. Freedom of religion includes the freedom to propagate any religion, even through forced conversions.
 - d. The government must treat all religions equally and not favour any particular religion.

Answer: D

Explanation:

- **Option (d) is correct:** In India, everyone is free to choose a religion and practice it. However, the freedom of religion is subject to certain limitations imposed by the government to protect public order, morality, and health. The government can interfere in religious matters to eliminate social evils. This means that the freedom of religion is not an unlimited right. **Being a country with multiple religions, the government must extend equal treatment to different religions.** It emphasizes the principle of secularism and the objective of not favouring any particular religion.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

8. Consider the following statements about the cultural and educational rights in India:
1. The Indian Constitution recognizes the right of minorities to maintain their culture, including linguistic and cultural minorities.
 2. Minority status in India is solely determined by religious affiliation.
 3. Minority communities in India have the right to establish and manage their own educational institutions.
 4. The government is prohibited from discriminating against minority-run educational institutions when granting aid.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct: The Indian Constitution acknowledges and protects the cultural and educational rights of minorities in India.** This includes not only religious minorities but also linguistic and cultural minorities.
- **Statement 2 is incorrect: Minority status in India is not solely determined by religious affiliation.** While religious minorities are included, minority status can also be attributed to linguistic and cultural communities that are outnumbered by other social sections in a particular region or the country as a whole.
- **Statement 3 is correct: Minority communities in India have the right to establish and manage their own educational institutions.** This provision allows them to preserve and develop their culture and language through educational institutions of their own.
- **Statement 4 is correct: The Indian government is prohibited from discriminating against minority-run educational institutions while granting aid.** This ensures that minority institutions are not disadvantaged based on their management by a minority community.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

9. With reference to the right to constitutional remedies in India, consider the following statements:
1. The right to constitutional remedies is considered the 'heart and soul of the constitution' by Dr. Ambedkar.
 2. The right to constitutional remedies allows citizens to approach the Supreme Court or High Courts to restore violated fundamental rights.
 3. The National Human Rights Commission is responsible for protecting the rights of women, minorities, and Dalits specifically.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: Dr. B.R. Ambedkar, the principal architect of the Indian Constitution, indeed considered the right to constitutional remedies as the 'heart and soul of the constitution.'** He recognized the significance of this right in providing citizens with a means to seek the restoration of violated fundamental rights.
- **Statement 2 is correct: The right to constitutional remedies empowers citizens to approach the Supreme Court or High Courts when their fundamental rights have been violated.** They can file writ petitions seeking the restoration of their rights, and the courts have the authority to issue orders and directives to enforce these rights.
- **Statement 3 is incorrect: The National Human Rights Commission (NHRC) in India is responsible for the protection and promotion of human rights in general, not specifically for the rights of women, minorities, and Dalits.** While the NHRC may address cases related to the violation of rights of women, minorities, and Dalits, there are separate institutions and commissions, such as the National Commission on Women, the National Commission for Minorities, and the National Commission for Scheduled Castes, that specifically focus on the rights and welfare of these marginalized groups.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

10. Which of the following statements about the National Human Rights Commission (NHRC) are correct?

1. The NHRC was established in 1993 by the Indian government.
2. The NHRC has the power of prosecution and can initiate legal proceedings.
3. The NHRC conducts inquiries into complaints of human rights violations and can recommend actions to the government or courts based on its findings.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: The National Human Rights Commission (NHRC) was established in 1993 by the Indian government.**
- **Statement 2 is incorrect: The NHRC does not have the power of prosecution.** It can only make recommendations to the government or recommend to the courts to initiate proceedings based on its inquiries.
- **Statement 3 is correct: One of the functions of the NHRC is to conduct inquiries into complaints of human rights violations.** Based on its findings, the NHRC can make recommendations to the government or recommend the initiation of legal proceedings by the courts.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

11. Which of the following statements about the Directive Principles of State Policy is correct?
- a. The Directive Principles of State Policy are legally enforceable, and citizens can approach the court for their implementation.
 - b. The Directive Principles of State Policy were included in the Constitution to provide a binding policy framework for future governments.
 - c. The Directive Principles of State Policy are justiciable, meaning that the judiciary can enforce their implementation.
 - d. The Directive Principles of State Policy are non-justiciable, but they serve as moral guidelines for the government and are expected to be taken seriously.

Answer: D

Explanation:

- **Option (d) is correct:** The Directive Principles of State Policy are not legally enforceable, meaning that citizens cannot approach the court for their implementation. These principles were included in the Constitution to provide policy guidelines for future governments, but they are not binding or mandatory. Since they are non-justiciable, the judiciary cannot enforce their implementation. **However, the framers of the Constitution expected the government to take these principles seriously, and they serve as moral guidelines for governance.** The responsibility for implementing these principles lies with the government, and the people are also expected to hold the government accountable for their implementation.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

12. With reference to Directive Principles of State Policy in the Indian Constitution, consider the following statements:

1. The Directive Principles include certain rights that individuals should enjoy apart from the Fundamental Rights.

2. The Directive Principles consist of policies that the government should adopt.
Which of the statements given above are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: B

Explanation:

- **Statement 1 is incorrect: While the Directive Principles do address some socio-economic rights, they are not enforceable by the courts and do not create legally binding rights for individuals.** Unlike Fundamental Rights, which are justiciable and can be enforced through legal remedies, the rights mentioned in the Directive Principles are more aspirational in nature and serve as a guide for the government to formulate policies and laws that promote the welfare of the people.
- **Statement 2 is correct: The Directive Principles do contain policies that the government is expected to adopt to achieve the goals and objectives outlined in them.** These policies cover various aspects of governance, such as social welfare, economic development, agriculture, education, health, labour rights, and more.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

13. Consider the following statements about the Fundamental Duties of citizens, as mentioned in the Constitution of India:

- 1. The 42nd amendment to the Constitution in 1976 introduced a list of ten Fundamental Duties of Citizens.
- 2. The Constitution does not provide any provisions for the enforcement of these Fundamental Duties.
- 3. The fulfillment of Fundamental Duties is a prerequisite for enjoying fundamental rights.
- 4. Among the Fundamental Duties, citizens are solely obligated to defend the country, promote harmony, and protect the environment.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: B

Explanation:

- **Statement 1 is correct: The 42nd amendment to the Constitution of India in 1976 introduced a list of ten Fundamental Duties of Citizens.** These duties were added to Part IV-A of the Indian Constitution.
- **Statement 2 is correct: The Constitution does not provide specific provisions for the enforcement of these Fundamental Duties.** Unlike Fundamental Rights, which can be enforced through the courts, there are no legal mechanisms to enforce the Fundamental Duties.
- **Statement 3 is incorrect: The fulfillment of Fundamental Duties is not a prerequisite for enjoying fundamental rights.** The inclusion of Fundamental Duties does not change the status of fundamental rights.
- **Statement 4 is incorrect: Among the Fundamental Duties, citizens are indeed obligated to defend the country, promote harmony, and protect the environment. However, there are other duties as well, such as respecting the Constitution and national symbols, cherishing**

and preserving the rich heritage of the country, striving for excellence in all spheres of individual and collective activity, and so on.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

14. In the context of the relationship between Fundamental Rights and Directive Principles, consider the following statements:

1. Fundamental Rights protect the rights of individuals, while Directive Principles aim to ensure the well-being of the entire society.
2. In case of a conflict between Fundamental Rights and Directive Principles, Directive Principles shall always prevail over the Fundamental rights.
3. The Supreme Court of India ruled in the Minerva Mills case that Parliament cannot make amendments that violate the Basic structure of the constitution.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: Fundamental Rights**, enshrined in Part III of the Indian Constitution, are individual rights that provide protection and safeguards against the arbitrary actions of the state. **On the other hand, Directive Principles of State Policy**, found in Part IV of the Indian Constitution aim to promote the welfare of the people as a whole and cover areas such as social justice, economic equality, protection of the environment, etc.
- **Statement 2 is incorrect:** There is no absolute hierarchy between Fundamental Rights and Directive Principles. **Both are important and have their own significance. However, in case of a conflict between Fundamental Rights and Directive Principles, the Supreme Court of India has held that a reasonable and just balance should be struck between the two.** The court has recognized that certain restrictions on Fundamental Rights may be necessary to give effect to Directive Principles, but such restrictions should not violate the basic essence and core of the Fundamental Rights.
- **Statement 3 is incorrect: In the Keshavananda Bharati case, not in Minerva Mills case, the Supreme Court held that there are certain basic features of the Constitution that are beyond the amending power of Parliament.** While the court did not explicitly state that Parliament cannot make amendments that violate Fundamental Rights, it asserted that Parliament cannot alter the basic structure of the Constitution, which includes the protection of Fundamental Rights.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution

15. Consider the following statements about the change in the status of the right to property in India:

1. The 44th amendment removed the right to property from the list of Fundamental Rights.
2. The Supreme Court declared the right to property as part of the basic structure of the Constitution.
3. The right to property was converted into a simple legal right under Article 300A.
4. The government no longer has the power to acquire property for public welfare.

How many of the statements given above are correct?

- a. Only one
- b. Only two

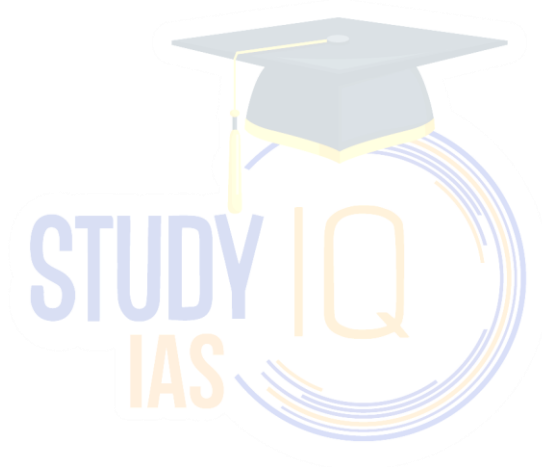
- c. Only three
- d. All four

Answer: A

Explanation:

- **Statement 1 is correct: The 44th amendment to the Indian Constitution, enacted in 1978, indeed removed the right to property from the list of Fundamental Rights.** Prior to the amendment, the right to 'acquire, possess and maintain' property was considered a fundamental right under the Constitution.
- **Statement 2 is incorrect: The Supreme Court did not declare the right to property as part of the basic structure of the Constitution.**
- **Statement 3 is incorrect: The right to property was indeed converted into a simple legal right under Article 300A.** This means that the right to property continues to exist, but it is no longer considered a fundamental right.
- **Statement 4 is incorrect: The government still has the power to acquire property for public welfare.** However, such acquisition must be in accordance with the established legal procedures and must provide fair compensation to the affected individuals.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 2/ Rights in the Indian Constitution



CHAPTER 3: ELECTION AND REPRESENTATION

INTRODUCTION

Elections require rules and impartial machinery to ensure fair and free elections. The constitution of a democratic country contains essential decisions about elections, such as the method of conducting them and the impartial machinery involved.

ELECTIONS AND DEMOCRACY

Importance of Elections

- Democracy requires representation, and it is impractical for all citizens to directly participate in decision-making.
- Therefore, elections are essential to choose representatives who will govern on behalf of the people.
- Elections become crucial in a democratic system to ensure that citizens' voices are heard through their elected representatives.

Elections without having democracy

- Not all elections are democratic. In some non-democratic countries, elections are held, but they are often manipulated to ensure the ruling party remains in power.
- Non-democratic rulers may hold elections to present themselves as democratic, but the elections lack fairness and credibility.

Importance of the constitution in shaping the electoral process

- The constitution forms the foundation of the **democratic process, guiding and safeguarding elections** in a democratic way.
- The constitution **lays down the basic rules** for elections, such as eligibility to vote and contest, election supervision, and representation.
- The Constitution of India addresses these aspects, ensuring that elections are conducted fairly and democratically.

Direct democracy

- It is a system where citizens directly participate in day-to-day decision-making and running the government.
- **Examples of direct democracy** can be found in **ancient city-states like Greece** and in **modern local governments**, such as **gram sabhas in India**.
- Direct democracy becomes impractical in large nations with millions of citizens, where decisions must be made collectively.

Indirect democracy

- In indirect democracy citizens elect representatives who make major decisions and govern on their behalf.
- These elected representatives play an active role in administering the country, and the process of electing them through elections becomes crucial.

ELECTION SYSTEM IN INDIA

Election system is not a one-size-fits-all concept. Different countries may adopt different methods of elections, and these systems can have a significant influence on the functioning of their democracies. There are various ways in which people can make their choices during elections, and different methods of counting and representing these preferences can significantly impact the election results.

FIRST PAST THE POST SYSTEM

- First Past the Post (FPTP) system is also known as the Plurality System.
- **Under this system:**
 - The entire country is divided into 543 constituencies;
 - Each constituency elects one representative; and
 - The candidate who secures the highest number of votes in that constituency is declared elected.
- It means the **candidate who receives more votes** than all other candidates is declared the winner, regardless of whether they obtain an absolute majority (more than 50% of votes).
- It is the method of election **prescribed by the Constitution in India.**

PROPORTIONAL REPRESENTATION

- **Israel follows a Proportional Representation (PR) system**, which is very different from the First Past the Post (FPTP) system used in India.
 - In Israel, once the votes are counted, each party is allotted the share of seats in the parliament **in proportion to its share of votes.**
 - **Each party fills its quota of seats** by picking those many of its nominees from a preference list that has been declared before the elections. This system of elections is called the **Proportional Representation (PR) system.**
 - In this system, a party gets the same proportion of seats as its proportion of votes.
- **There are two variations of the PR system:**
 - In some countries like **Israel and the Netherlands**, the entire country is treated as one constituency, and seats are allocated to parties based on their national vote share.
 - In other countries like **Argentina and Portugal**, the country is divided into multi-member constituencies, and parties prepare candidate lists for each constituency.
- **Preference for a party:** In the **PR system, voters cast their preference for a party** rather than a candidate.
 - Seats in a constituency are distributed based on the votes received by each party. As a result, representatives from a constituency may belong to different parties.
- **In India:** India uses the PR system on a limited scale for indirect elections, such as the election of the
 - **President**
 - **Vice President**
 - **Rajya Sabha**
 - **Vidhan Parishads**
 - These elections **follow a third and complex variation of the PR system** as prescribed by the Constitution.

How does PR work in Rajya Sabha elections?

- A third variant of PR, the **Single Transferable Vote system (STV)**, is followed for Rajya Sabha elections.
- Every State has a specific quota of seats in the Rajya Sabha.
- The **members are elected by the respective State legislative assemblies.** The voters are the MLAs in that State.
- Every voter is required to rank candidates according to her or his preference.
- To be declared the winner, a candidate must secure a minimum quota of votes, which is determined by a formula:

$$\left(\frac{\text{Total votes polled}}{\text{Total number of candidates to be elected} + 1} \right) + 1$$

Comparison of FPTP and PR System of Election	
FPTP	PR
The country is divided into small geographical units called constituencies or districts.	Large geographical areas are demarcated as constituencies. The entire country may be a single constituency.
Every constituency elects one representative.	More than one representative may be elected from one constituency
Voter votes for a candidate	Voter votes for the party
A party may get more seats than votes in the legislature.	Every party gets seats in the legislature in proportion to the percentage of votes that it gets.
Candidate who wins the election may not get majority (50%+1) votes	Candidate who wins the elections gets majority of votes.
Examples: U.K., India	Examples: Israel, Netherlands

REASONS BEHIND ADOPTION OF FPTP SYSTEM BY INDIA

- **Simplicity:** The FPTP system is straightforward and easy for common voters to understand, even those without specialized knowledge about politics and elections.
- **Clear choice for voters:** In the FPTP system, voters can endorse a **specific candidate or party, providing a clear choice during elections.**
- **Constituency-based representation:** FPTP allows voters to know their own representative, making it easier to hold them accountable for their actions.
- **Stability in parliamentary system:** The FPTP system facilitates the formation of a stable government in a parliamentary system, where the executive needs to have a majority in the legislature.
- **Encouraging broad-based support:** FPTP encourages voters from different social groups to come together to win elections in a locality, discouraging parties that solely represent one caste or community.
- **Issues with PR:**
 - It is a complicated system which may work in a small country.
 - Voters are often asked to choose a party and the representatives are elected on the basis of party lists and they don't know their own representative.
 - The Constitution makers felt that PR based election may not be suitable for **giving a stable government in a parliamentary system.**

EXPERIENCE OF INDIA'S FPTP ELECTORAL SYSTEM

- **FPTP system has largely confirmed** the expectations of the constitution makers.
 - It has proven to be simple and familiar to ordinary voters, allowing larger parties to win clear majorities both at the central and state levels.
 - It has also discouraged parties that rely solely on support from one caste or community.
- **Typically, FPTP results in a two-party system**, with two major competitors for power often sharing the governance alternately.
 - This setup makes it challenging for new or third parties to enter the competition and gain significant power.
- However, India's experience with FPTP is slightly different.

- **After independence**, there was a period of one-party dominance, with numerous smaller parties coexisting.
- **From 1989 onwards**, the country witnessed the emergence of multi-party coalitions.
- These coalitions allowed new and smaller parties to enter the electoral competition despite the FPTP system.

RESERVATION OF CONSTITUENCIES

WHY IS THIS NEEDED?

- FPTP election system, which declares the candidate with the highest votes as the winner, can disadvantage smaller social groups in India, particularly those historically oppressed due to caste-based discrimination.
- To address this issue, the Constitution makers adopted a system of reserved constituencies, where candidates must belong to specific communities or social sections for which seats are reserved.

Separate electorates

- **British government introduced** separate electorates.
- This system meant that **for electing a representative** from a particular community, **only those voters would be eligible who belong to that community**.
- In the Constituent Assembly, many members **expressed a fear that this will not suit our purposes**.
- Therefore, they decided to adopt the system of reserved constituencies.

System of reserved constituencies

- **Eligibility to Vote:** In reserved constituencies, all voters, regardless of their social background, are eligible to cast their votes during elections.
- **Reserved Candidates:** However, the candidates contesting in these constituencies must belong to the specific community for which the seat is reserved.
- **Ensuring Representation:** Certain social groups may be spread across the country and might not have a significant number of voters in a particular constituency.
 - The system of reservation ensures that these social groups are adequately represented in the legislative bodies.
- **Constitutional Provision:** The Constitution of India provides for the **reservation of seats in both the Lok Sabha** (Lower House of Parliament) and **State Legislative Assemblies** for Scheduled Castes and Scheduled Tribes.
 - Initially, this **reservation was made for ten years**, but it has been extended through successive constitutional amendments, allowing SCs and STs to continue having reserved seats in the legislature.
 - The reservation period for these **seats was initially set for ten years**, but the Parliament has the authority to extend it further through a decision when the period of reservation expires. As of January 2019, the reservation has been extended until 2020.
- **Proportional Representation:** The number of reserved seats for SCs and STs is in proportion to their share in the population of India.
 - For instance, **out of the 543 elected seats in the Lok Sabha, 84 seats are reserved for Scheduled Castes, and 47 seats are reserved for Scheduled Tribes**, reflecting their demographic representation.

Delimitation Commission

It plays a crucial role in the process of defining electoral boundaries and ensuring fair representation for marginalized communities.

- **Appointment:** Delimitation Commission is **appointed by the President of India**. It **collaborates with the Election Commission of India**, which oversees and conducts elections in the country.
- **Purpose:** It draws up the boundaries of constituencies across India. This is essential to ensure that each constituency has a well-defined geographic area with an approximately equal number of voters.
- **Quota of Reserved Constituencies:** It fixes a quota of constituencies to be reserved in each State based on the proportion of Scheduled Castes or Scheduled Tribes in that particular State.
- **In case of ST:** Constituencies **with highest proportion of ST population are reserved for ST**.
- **In case of SC:** Delimitation Commission looks at two things-
 - It picks **constituencies that have higher proportion of Scheduled Caste population**.
 - It also spreads these constituencies in different regions of the State because the Scheduled Caste population is generally spread evenly throughout the country.
- **Rotation of Reserved Constituencies:** Each time the Delimitation exercise is undertaken, the reserved constituencies can be rotated based on demographic changes and other factors.
- The Constitution **does not make similar reservation for other disadvantaged groups**.

FREE AND FAIR ELECTIONS

- The **true test of any election system lies in its capacity to uphold a free and fair electoral process**.
- **For democracy to be effectively practiced, the election system must be unbiased, transparent, and impartial.**
- It should provide voters with a genuine opportunity to express their aspirations, and the electoral results should reflect the legitimate will of the people.

UNIVERSAL FRANCHISE AND RIGHT TO CONTEST

- **Universal Adult Franchise:** It is the **principle that grants all adult citizens of a country the right to vote in elections**.
 - In India, this **right was guaranteed by the framers of the Constitution**, ensuring that every adult citizen, regardless of gender, education, income, or social class, has the opportunity to participate in the electoral process.
 - **Eligibility age for voting:** Initially set at **21 years** but was **later reduced to 18 years** through a **constitutional amendment in 1989**.
 - This practice is **consistent with the principles of equality and non-discrimination**, allowing all citizens to have an equal say in deciding the future of their society, country, and constituencies.
- **Right to Contest Elections:** **In addition to the right to vote**, the Indian Constitution also grants all citizens the right to contest elections and become representatives of the people.
 - There are certain minimum age requirements to contest elections.
 - **For example, to stand for Lok Sabha or State Assembly elections, a candidate must be at least 25 years old.**
 - **There are no restrictions based on income, education, social class, or gender** for the right to contest elections.

INDEPENDENT ELECTION COMMISSION

- **Indian Constitution** establishes an **independent Election Commission** responsible for the **"superintendence, direction, and control" of electoral roll and conduct of elections in India**.
 - The **Election Commission plays a decisive role** in all aspects related to elections, ensuring a free and fair electoral system and process.
- **Constitutional Provisions:** **Article 324 of the Indian Constitution empowers** the Election Commission with its responsibilities and functions.
 - It provides the Election Commission with the authority to conduct and supervise elections in the country, ensuring the integrity and transparency of the electoral process.

STRUCTURE OF ELECTION COMMISSION OF INDIA

- The Election Commission can be **either a single-member or a multi-member body**.
- **Till 1989**, it was a **single-member Commission**.
- Then, **two Election Commissioners** were appointed **before the 1989 general elections**, making it a multi-member Commission.
- **Since 1993**, the Election Commission has remained a **multi-member body, with a Chief Election Commissioner (CEC) and two Election Commissioners**.
- There is a general consensus that a **multi-member Election Commission** is more appropriate as power is shared and there is greater accountability

CHIEF ELECTION COMMISSIONER (CEC)

- The Chief Election Commissioner presides over the Election Commission but does not hold more powers than the other Election Commissioners.
- **The CEC and the two Election Commissioners have equal powers** and collectively make decisions related to elections.
- They are **appointed by the President of India** on the advice of the Council of Ministers

SECURITY OF TENURE

- The **Constitution ensures the security of the tenure** of the Chief Election Commissioner and Election Commissioners.
- They are appointed for a **six-year term** or **until the age of 65**, whichever is earlier.
- The CEC can be **removed before the term's expiry** if both Houses of Parliament recommend such removal with a special majority.
- This is to prevent a ruling party from removing a CEC who refuses to favor them in elections.
- The **President of India can remove** the Election Commissioners.

FUNCTIONS OF ELECTION COMMISSION OF INDIA

- **Preparation of Voters' List:** It supervises the preparation of an accurate and up-to-date voters' list. It ensures that the list is free from errors such as the inclusion of non-existent names or the absence of names of eligible registered voters.
- **Determining Election Timing and Schedule:** It decides the timing of elections and prepares the comprehensive election schedule.
 - This schedule includes important dates like the notification of elections, the period for filing nominations, scrutiny of nominations, withdrawal of nominations, polling date, counting date, and result declaration.
- **Ensuring Free and Fair Elections:** Throughout the election process, the Election Commission has the authority to make decisions to ensure a free and fair poll.
 - It can postpone or cancel elections in the entire country, a specific State, or a constituency if the atmosphere is vitiated and fair elections are not possible.
 - The Commission also enforces a model code of conduct for political parties and candidates and can order a re-poll or vote recount if necessary.
- **Recognition of Political Parties and Symbol Allotment:** The Election Commission grants recognition to political parties and assigns unique symbols to each of them.
 - This recognition and symbol allocation are essential for parties to contest elections and be identified on the ballot papers.

ELECTION COMMISSION: A ROBUST AND ASSERTIVE INSTITUTION

- The Election Commission of India **has limited staff** and **relies on the administrative machinery** to conduct elections.
 - However, **once the election process starts**, the commission gains full control over the administration regarding election-related activities.

- It can assign election duties to administrative officers, transfer them, or take action against them for any partisan behaviour.
- Over time, **it has become an independent authority**, using its powers more effectively to ensure fairness in the electoral process.
- **Since its establishment**, the Election Commission has successfully conducted numerous elections, including challenging situations **in militancy-affected areas** and during **critical events like the assassination of a former Prime Minister**.

ELECTORAL REFORMS

- The election process can never be perfect, and flaws and limitations are inevitable.
- **Despite the acceptance of adult suffrage, freedom to contest elections**, and the **establishment of an independent Election Commission**, India has experienced many suggestions for electoral reform over the past 66 years.
- Some of the **suggested reforms include**:
 - **Changing the current First Past the Post (FPTP) system** to a variant of the Proportional Representation (PR) system to ensure better representation of parties based on their vote share.
 - There are also calls for **reserving at least one-third of seats for women** in parliament and assemblies.
 - Stricter provisions to **control the role of money in politics**.
 - **Barring candidates with pending criminal cases**.
 - **Banning the use of caste and religious appeals** in campaigns.
 - **Making laws** to regulate the functioning of political parties and to ensure that they function in a transparent and democratic manner.
- **Apart from legal reforms, there are two additional ways to ensure that elections align with the expectations and democratic aspirations of the people.**
 - **Citizens must be vigilant** and actively participate in political activities.
 - It becomes crucial to **develop and activate various political institutions** and voluntary organizations that can **act as watchdogs to ensure the conduct of free and fair elections**.

Factors Behind India's Successful Election System

- It allows voters to freely choose representatives and change governments peacefully at both state and national levels.
- Voters actively participate in the election process, leading to an increasing number of candidates and parties contesting elections.
- The election system is accommodating and inclusive, gradually diversifying the social composition of representatives.
- Despite attempts at rigging and malpractices, the election outcomes in most parts of the country remain largely unaffected.
- Elections have become an integral part of India's democratic life, with no disrespect for election verdicts or formation of governments without holding elections, earning fame for India as a great democratic experiment.

Points To Remember

- **Proportional Representation in Israel**
 - Israel uses a proportional representation system for its elections. Voters vote for parties, not individual candidates.
 - **Parties receive seats in the Knesset** based on the proportion of votes they obtain.
 - This enables smaller parties with limited support to gain representation.

- **A minimum of 3.25% votes** is required for a party to be eligible for seats. The system often results in multi-party coalition governments.
- **Article 324: (1)** The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and VicePresident held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission)
- **Special majority means:**
 - Two-thirds majority of those present and voting, and
 - Simple majority of the total membership of the House.

QUESTIONS

1. Consider the following statements about the elections and democracy:

1. Elections ensure representation in large democracies.
2. Direct democracy involves direct citizen participation in decision-making, while representative democracy relies on elected representatives to make decisions on behalf of citizens.
3. Democratic elections are distinguished by their fairness and freedom, allowing citizens to freely choose their representatives.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: C

Explanation:

- **Statement 1 is correct:** Elections are indeed a necessary component of democracy as they allow for representation in large democracies where direct participation of all citizens is not feasible. In a democracy, citizens elect representatives who make decisions and govern on their behalf.
- **Statement 2 is correct:** Direct democracy refers to a system where citizens directly participate in day-to-day decision-making and government administration. On the other hand, representative democracy, which is more common in modern societies, involves elected representatives making major decisions on behalf of the citizens. The citizens have a limited role in decision-making, and they participate indirectly through their elected representatives.
- **Statement 3 is correct:** Democratic elections are distinguished by their fairness and freedom. In a democratic election, citizens have the right to freely choose their representatives without coercion or manipulation.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

2. Consider the following statements about the comparison between the First-Past-the-Post (FPTP) system and the Proportional Representation (PR) system of elections:

1. FPTP divides the country into small geographical units called constituencies, whereas in PR entire country may be considered a single constituency.
2. Under FPTP, more than one representative may be elected from one constituency, while PR elects only one representative from each constituency.

3. FPTP ensures that every party gets seats in the legislature in proportion to the percentage of votes it receives, whereas PR may result in a party receiving more seats than its votes.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct:** In FPTP, the country is divided into small geographical units called **constituencies**. Each constituency elects one representative. **On the other hand, in PR, the country is divided into larger geographical areas or districts**, and the entire country may be considered a single constituency.
- **Statement 2 is incorrect:** In FPTP, **only one representative is elected from each constituency**, not multiple representatives. **In PR, more than one representative may be elected from one constituency, depending on the proportionality of votes received by political parties.**
- **Statement 3 is incorrect:** In FPTP, **the party that wins the most votes in a constituency secures the seat, regardless of the percentage of votes received.** FPTP does not guarantee proportionality between the percentage of votes a party receives and the number of seats it obtains. **In PR, however, seats are allocated to parties in proportion to the percentage of votes they receive, aiming to achieve a more proportional representation.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

3. With reference to the reasons behind India's adoption of the First-Past-the-Post (FPTP) electoral system, consider the following statements:

- 1. The FPTP system ensures a clear choice for voters by allowing them to endorse specific candidates or parties during elections.
- 2. The FPTP system facilitates the formation of a stable government by providing a majority in the legislature for the executive.
- 3. The FPTP system guarantees proportional representation and discourages the dominance of larger parties.

Which of the statements given above are correct?

- a. 1 and 3 only
- b. 1, 2 and 3 only
- c. 2 and 3 only
- d. 1 and 2 only

Answer: D

Explanation:

- **Statement 1 is correct:** The FPTP system in India allows voters to endorse specific candidates or parties during elections, providing them with a clear choice.
- **Statement 2 is correct:** The FPTP system in India helps facilitate the formation of a stable government by providing a majority in the legislature for the executive. This is particularly important in a parliamentary system where the executive requires majority support in the legislature.
- **Statement 3 is incorrect:** The FPTP system in India does not guarantee proportional representation. Instead, it often leads to a two-party system and has historically resulted in one-party dominance at the national level. However, it is worth noting that after 1989, India

started witnessing the functioning of multiparty coalitions, allowing new and smaller parties to enter electoral competition despite the FPTP system.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

4. How many of the following statements about the reservation of constituencies in India are correct?
1. The FPTP electoral system in India often disadvantages smaller social groups, leading to the dominance of larger social groups and castes in elections.
 2. To address the issue of fair representation for oppressed social groups, India adopted the system of reserved constituencies.
 3. The Constitution provides for reservation of seats in the Lok Sabha and State Legislative Assemblies for the Scheduled Castes and Scheduled Tribes.
 4. The decision on which constituency is to be reserved is taken by the Delimitation Commission.

Select the correct answer using the code given below:

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The FPTP electoral system in India often disadvantages smaller social groups, as the candidate who secures the highest votes in a particular constituency is declared elected.** This can lead to the dominance of larger social groups and castes in elections, resulting in the unrepresentation of oppressed social groups.
- **Statement 2 is correct: To address the issue of fair representation for oppressed social groups, India adopted the system of reserved constituencies.** Under this system, candidates must belong to a specific community or social section for which the seat is reserved. This ensures that the oppressed social groups have a chance to be represented.
- **Statement 3 is correct: The reservation of seats in the Lok Sabha and State Legislative Assemblies for Scheduled Castes and Scheduled Tribes is provided in the Indian Constitution.** Initially, this provision was made for a period of 10 years, but it has been extended through successive constitutional amendments.
- **Statement 4 is correct: The decision on which constituency is to be reserved is taken by the Delimitation Commission, an independent body appointed by the President of India in collaboration with the Election Commission of India.** The Delimitation Commission is responsible for drawing up the boundaries of constituencies all over the country and fixing the quota of reserved constituencies based on the proportion of Scheduled Castes or Scheduled Tribes in each state.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

5. Which of the following statements best captures the essence of free and fair elections in a democratic system?
- a. The success of an election system lies in its ability to guarantee equal representation of all political parties.
 - b. A crucial aspect of a free and fair electoral process is the absence of any form of voter identification or verification.
 - c. Transparency and impartiality are vital characteristics of an election system to ensure a democratic translation of people's will.

- d. The legitimacy of an election system depends on prioritizing the aspirations of political leaders over the choices made by the electorate.

Answer: C

Explanation:

- **Option (a) is incorrect: Equal representation is important in a democratic system, it does not capture the essence of free and fair elections.** Free and fair elections are about ensuring fairness, transparency, and the expression of the will of the voters, rather than solely focusing on the representation of political parties.
- **Option (b) is incorrect: Voter identification and verification play important roles in preventing fraud and maintaining the integrity of the electoral process.**
- **Option (c) is correct: Transparency and impartiality are essential characteristics of an election system that allow the democratic expression of people's will.** By ensuring transparency in the electoral process and treating all participants equally, an election system can be considered fair and legitimate.
- **Option (d) is incorrect: The statement suggests that the legitimacy of an election system depends on prioritizing the aspirations of political leaders over the choices made by the electorate. This contradicts the principles of democracy, where the will of the people should be the primary factor in determining the legitimacy of an election.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

6. Consider the following statements about universal franchise and the right to contest elections in India:
1. Universal adult franchise guarantees that all adult citizens in India have the right to vote in elections.
 2. The eligibility age for voting in India was reduced to 18 through a constitutional amendment in 1999.
 3. To contest elections for the Lok Sabha, a candidate must be at least 21 years old.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: Universal adult franchise means that every adult citizen, regardless of their gender, caste, religion, or education, has the right to vote in elections.** The Indian Constitution guarantees this right to all adult citizens.
- **Statement 2 is incorrect: Prior to 1989, the eligibility age for voting in India was 21.** However, through a constitutional amendment in 1989, the eligibility age was reduced to 18. This amendment was aimed at extending the right to vote to a larger section of the population.
- **Statement 3 is incorrect: To contest elections for the Lok Sabha (the lower house of Parliament) or State Legislative Assembly in India, a candidate must be at least 25 years old.** This is one of the minimum age requirements set for candidates aspiring to hold public office.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

7. Consider the following statements about the Election Commission of India:
1. The Election Commission of India is responsible for conducting local body elections.
 2. The Election Commission of India was initially a single-member body.

3. The Chief Election Commissioner has more powers than the other Election Commissioners.
4. The President of India appoints the Chief Election Commissioner on the advice of the Council of Ministers.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: B

Explanation:

- **Statement 1 is incorrect: The Election Commission of India is not responsible for the conduct of local body elections.** Each state has its own State Election Commissioner who works independently in conducting local body elections.
- **Statement 2 is correct: The Election Commission of India was initially a single-member body.** However, just before the 1989 general elections, two Election Commissioners were appointed, making the body a multi-member commission. Since then, it has remained a multi-member commission.
- **Statement 3 is incorrect: The Chief Election Commissioner (CEC) does not have more powers than the other Election Commissioners.** The CEC and the two Election Commissioners have equal powers to take all decisions relating to elections as a collective body.
- **Statement 4 is correct: The President of India appoints the Chief Election Commissioner on the advice of the Council of Ministers.** However, it is stated that many persons have suggested that consultation with the leader of opposition and the Chief Justice of India should also be necessary for the appointment of CEC and Election Commissioners.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation

8. Consider the following statements about the suggestions in electoral reforms in India:
1. The FPTP system should be replaced with a variant of the PR system to ensure proportional representation of parties based on the votes they receive.
 2. At least one-third of the seats in parliament and assemblies should be reserved for women.
 3. The government should establish a special fund to cover election expenses and reduce the role of money in electoral politics.
 4. Candidates with any criminal case should be allowed to contest elections, regardless of the status of their pending appeals.
 5. Political parties should be regulated by law to ensure transparency and democratic functioning.

Which of the statements given above are correct?

- a. 1, 2 and 4 only
- b. 1, 2, 3 and 5 only
- c. 3, 4 and 5 only
- d. 1, 2, 3, 4 and 5

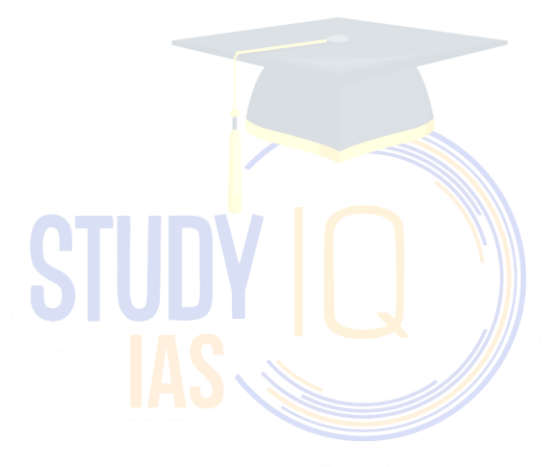
Answer: B

Explanation:

- **Statement 1 is correct: The suggestion is to change the system of elections from the First-Past-The-Post (FPTP) system to a variant of the Proportional Representation (PR) system.** This change would aim to ensure that parties receive seats in proportion to the votes they receive.

- **Statement 2 is correct: The suggestion is to have a special provision to ensure that at least one-third of the seats in parliament and assemblies are reserved for women.** This is aimed at promoting gender equality and increasing the representation of women in politics.
- **Statement 3 is correct: The suggestion is to establish a special fund to cover election expenses, which would be paid by the government.** This proposal aims to reduce the role of money in electoral politics and make the process more equitable.
- **Statement 4 is incorrect: The suggestion is to bar candidates with any criminal cases from contesting elections, even if their appeal is pending before a court.** This proposal aims to prevent individuals with criminal backgrounds from participating in the electoral process.
- **Statement 5 is correct: The suggestion is to impose a complete ban on the use of caste and religious appeals in election campaigns.** This measure aims to discourage divisive tactics and promote a more inclusive and secular political environment.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 3/ Election and Representation



CHAPTER 4: EXECUTIVE

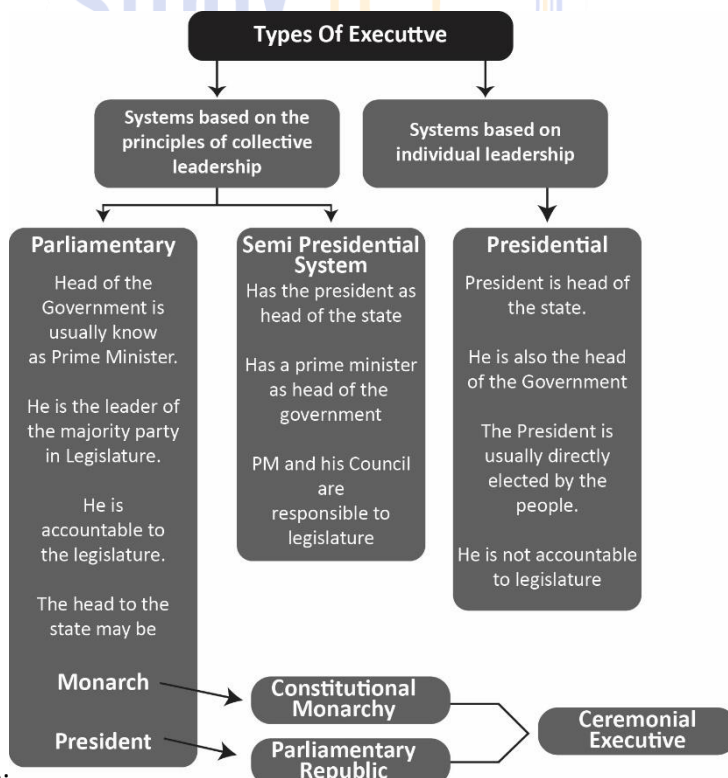
INTRODUCTION

The legislature, executive, and judiciary are the three organs of the government, and they work together to maintain law and order and ensure the welfare of the people. The Constitution ensures their coordination and balance. In a parliamentary system, the executive and legislature are interdependent; the legislature controls the executive, and, in turn, is controlled by the executive.

EXECUTIVE

- An executive is a body or branch of government that is responsible for the implementation of laws and policies adopted by the legislature.
- It consists of individuals who are in charge of making decisions, setting policies, and overseeing the administration and management of an organization or government.
- In the context of a school or university, the administration is led by officials who make important decisions and ensure the smooth functioning of the institution.
- In a government, the executive organ is responsible for implementing rules and regulations, as well as framing policies.
- The executive branch includes not only top-level officials like **presidents, prime ministers, and ministers** but also extends to civil servants and **administrative personnel** who handle day-to-day administrative tasks.
- **Types of Executives:**
 - **Political executive:** Heads of government and their ministers.
 - **Permanent executive:** Who are responsible for the daily administration.

DIFFERENT TYPES OF EXECUTIVES



- **Presidential System:**
 - The **president** is the **Head of state** as well as **head of government**.
 - The president holds significant powers in theory and practice.

- **Example:** United States, Brazil, and most nations in Latin America.
- **Parliamentary System:**
 - The **prime minister** is the **Head of Government**.
 - Most parliamentary systems have a **monarch or president as the nominal Head of State**, with a primarily **ceremonial role**.
 - The prime minister and the cabinet wield effective power.
 - **Examples:** United Kingdom, Germany, Japan, Italy, Portugal.
- **Semi-Presidential System:**
 - It has both a president and a prime minister.
 - Here, the **president** may have **significant day-to-day powers**.
 - The president and prime minister may belong to the same or different parties, leading to potential opposition.
 - **Examples:** France, Russia, Sri Lanka

Countries with their Executive system

USA	Presidential system and executive powers are in the hands of the president.
Canada	Parliamentary democracy with a constitutional monarchy where Queen Elizabeth II is the formal chief of state and the prime minister is the head of government.
France	Both the president and the prime minister are a part of the semi-presidential system.
Japan	Parliamentary system with the emperor as the head of the state and the prime minister as the head of government.
Italy	Parliamentary system with the president as the formal head of state and the prime minister as the head of government.
Russia	Semi-presidential system where President is the head of state and Prime minister, who is appointed by the president, is the head of government.
Germany	Parliamentary system in which President is the ceremonial head of state and the chancellor is the head of government.

SEMI-PRESIDENTIAL EXECUTIVE IN SRI LANKA

- In 1978, Sri Lanka introduced the system of Executive Presidency through a constitutional amendment.
- Under this system, the **President is directly elected by the people**. The President has extensive powers, including the authority to appoint and dismiss the Prime Minister and ministers.
- The **President** serves as the **Head of State, Commander-in-Chief of the Armed Forces, and the Head of Government**.
- The President is elected for a **six-year term** and can only be **removed by a resolution passed by at least two-thirds of the total number of Members of Parliament**.
- If the resolution is passed by at **least one-half** of the Members of Parliament and the Speaker finds merit in the allegations, the Speaker can refer the matter to the Supreme Court for further inquiry.

PARLIAMENTARY EXECUTIVE IN INDIA

REASONS BEHIND ADOPTING PARLIAMENTARY SYSTEM BY INDIA OVER PRESIDENTIAL SYSTEM

- **Experience and familiarity:** India had previous experience with the parliamentary system under the **Government of India Acts of 1919 and 1935**.
 - This experience showed that the parliamentary system allowed for effective control of the executive by the representatives of the people.

- **Responsiveness and accountability:** The framers of the Indian Constitution aimed to ensure that the government would be sensitive to public expectations and responsible and accountable to the people.
 - The parliamentary system provides **mechanisms for the executive to be answerable to and controlled by the legislature** or the people's representatives.
- **Safeguards against personality cult:** The presidential system tends to place significant emphasis on the **president as the chief executive** and the source of all executive power. This can lead to the **risk of developing a personality cult** around the president.
 - To avoid such concentration of power and to **ensure a system of checks and balances**, the framers of the Constitution preferred a strong executive branch within the parliamentary system.
- **Checks and balances:** The parliamentary system incorporates various mechanisms to maintain a balance of power between the executive and the legislature.
 - These include the ability of the legislature to question and hold the executive accountable, the formation of a government through majority support in the legislature, and the provision for a vote of no-confidence to remove the executive.

PRESIDENT IN INDIAN EXECUTIVE SYSTEM

The President is the formal head of state in India. Although the President holds significant executive, legislative, judicial, and emergency powers, these powers are exercised on the advice of the Council of Ministers led by the Prime Minister.

Some key points about the President in the Indian executive system:

- **Election:** There is no direct election by the people for the office of President.
 - The President is **elected indirectly by elected Members of Legislative Assemblies (MLAs) and Members of Parliament (MPs)**.
 - The election follows the **principle of proportional representation with a single transferable vote**.
- **Term:** The President serves a **term of five years**.
- **Removal:** The President can be removed from office through the process of impeachment, which requires a **special majority in Parliament**.
 - Impeachment can only be pursued on the grounds of violation of the Constitution.

POWER AND POSITION OF PRESIDENT

- The President is the formal head of the government.
- However, in practice, the real executive power is wielded by the Prime Minister and the Council of Ministers, who have the support of the majority in the Lok Sabha.
- In a parliamentary system, the **President is bound to follow the advice of the Council of Ministers** on matters pertaining to the exercise of executive powers.

Article 74 (1): There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall in the exercise of his functions, act in accordance with such advice. Provided that the President may require the Council of Ministers to reconsider such advice....., and the President shall act in accordance with the advice tendered after such reconsideration.

- The word shall indicates that the advice is binding on the President. In view of the controversy about the scope of the President's powers, a specific mention was made in the Constitution by an amendment that the advice of the Council of Ministers will be binding on the President.
- By another amendment made later, it was decided that the President can ask the Council of Ministers to reconsider its advice but, has to accept the reconsidered advice of the Council of Ministers.

DISCRETIONARY POWERS OF THE PRESIDENT

As per the Constitution, the **President has the right to receive information about important discussions and decisions** taken by the Council of Ministers. The Prime Minister is obligated to provide any information requested by the President.

Three situations where the President can exercise the powers using his or her own discretion.

- **Reconsideration of Advice:** The President **can send back the advice** given by the Council of Ministers and ask for reconsideration.
 - The President acts on his/her own discretion if the advice has flaws, legal issues, or is not in the best interests of the country.
 - The President's request to reconsider carries significant weight.
 - However, the **Council can still send back the same advice and the President would then be bound by that advice.**
- **Veto Power:** The President has the power to **withhold or refuse to give assent to Bills** (except Money Bills) passed by Parliament.
 - Every bill passed by the Parliament goes to the President for his assent before it becomes a law. The President can send the bill back to Parliament for reconsideration.
 - The **President's veto power is limited**, as if the Parliament passes the same bill again and sends it back, the **President must give assent.**
 - The **Constitution does not specify a time limit** for the President to send the bill back, giving the President an informal power of a "**pocket veto.**"
- **Appointment of Prime Minister:** The President formally appoints the Prime Minister.
 - In situations **where no single leader has a clear majority** in the Lok Sabha, the **President has discretion in deciding whom to appoint as the Prime Minister.**
 - The President uses personal judgment to determine who may have the support of the majority and can effectively form and run the government.

Need of the President

- **Presidential discretion is influenced by political conditions.** When governments are not stable and coalitions hold power, there is greater scope for presidential assertiveness.
- The President's intervention may be required to constitute governments or grant requests for the dissolution of the Lok Sabha.
- The President is a formal power holder and a ceremonial head of the nation.
 - The President represents the entire country symbolically.
 - The President's role is crucial in situations where no party has a clear majority, as the President appoints the Prime Minister to run the government.

President's role in choosing the Prime Minister

- In instances where no political party or coalition secures a clear majority in the Lok Sabha, the President plays a significant role in determining the Prime Minister.
- In the case of the 1998 elections, where the BJP and its allies secured 251 seats, fell 21 seats short of a majority, President Narayanan took specific actions.
- He requested Atal Behari Vajpayee, the leader of the alliance, to provide supporting documents from the relevant political parties.
- Additionally, the President advised Vajpayee to seek a vote of confidence within ten days of being sworn in as Prime Minister.

Vice President of India

- **Term and Election Method:** Vice President is elected for a **five-year term** through a process similar to that of the President (only difference is that **members of State legislatures are not part** of the electoral college).
- **Removal:** The Vice President can be **removed from office by a resolution passed by the Rajya Sabha**, which must also be agreed upon by the Lok Sabha (the Lower House of Parliament).
- **Role:** The Vice President serves as the **ex-officio Chairman of the Rajya Sabha** (the Upper House of Parliament) and assumes the role of the President in case of a vacancy in the President's position due to **death, resignation, impeachment**, or other reasons.
 - The Vice President's role as the acting President continues until a new President is elected.
 - For example, **B. D. Jatti served as the acting President** after the death of **Fakhruddin Ali Ahmed** until a new President was elected.

PRIME MINISTER AND COUNCIL OF MINISTERS

PRIME MINISTER

- The Prime Minister is a crucial office in the Indian government.
- The President exercises powers on the advice of the Council of Ministers, headed by the Prime Minister.
- In a parliamentary form of government, the Prime Minister must have the support of a majority in the Lok Sabha. Therefore, he or she loses office if this majority support is lost.
- **Appointment and Role of the Prime Minister**
 - The Prime Minister is appointed by the President based on the support of the majority in the Lok Sabha.
 - **Since 1989**, a coalition of numerous political parties has dominated the House of Representatives. A prime minister is appointed who is acceptable to the majority of coalition partners.
 - The Prime Minister and ministers **must be members of Parliament**. If someone becomes a minister or Prime Minister without being an MP, such a person has to get elected to the Parliament **within six months**.
 - The Prime Minister acts as a link between the Council of Ministers, the President, and the Parliament.

Power and Influence of the Prime Minister

- The Prime Minister wields power through **control over the Council of Ministers, leadership of the Lok Sabha, and command over the bureaucracy**.
- Other sources of power include media access, projecting personalities during elections, and representing the nation internationally.
- The actual power of the Prime Minister depends on prevailing political conditions.

COUNCIL OF MINISTER

- The **Prime Minister selects ministers and allocates portfolios**.
- The Ministers are given the ranks of Cabinet Minister, Minister of State or Deputy Minister.
- Chief Ministers of the States choose Ministers from their own party or coalition.
- **Council of Ministers cannot exit without the Prime Minister**, who takes office before the Council is formed.
 - If the Prime Minister resigns or passes away, the **Council of Ministers is dissolved**. However, the resignation or dismissal of a minister leads to a **vacant ministerial position** without affecting the Council as a whole.

SIZE OF THE MINISTERIAL COUNCIL

- Prior to the 91st Amendment Act (2003), the size of the Council of Ministers was **determined based on time and situational circumstances**. However, this resulted in a very large Council of Ministers.
- In addition, when no party had a clear majority, there was a tendency to gain the support of members of Parliament by appointing them to ministerial positions, **since there was no limit on the number of ministers**.
- This was also occurring in numerous states. As a result, the Council of Ministers is **limited to no more than 15 percent of the total number of members** of the House of the People (or Assembly, in the case of the States).

EXECUTIVE UNDER THE CONTROL OF PARLIAMENT

- The Council of Ministers is **collectively responsible** to the Lok Sabha.
- A **loss of confidence** in the Lok Sabha leads to the resignation of the entire Council of Ministers.
- Ministers must **accept collective decisions** or **resign if they disagree**.
- **Collective responsibility principle** establishes that the ministry is an **executive committee of the Parliament** and that it governs collectively on behalf of the Parliament.

IMPACT OF COALITION GOVERNMENTS ON PARLIAMENTARY EXECUTIVE SYSTEM

- **Growing discretionary role of the President:** Coalition governments have led to a growing discretionary role of the President in the selection of Prime Ministers.
- **Consultation and erosion of prime ministerial authority:** The coalitional nature of Indian politics necessitates extensive consultation among political partners. This has resulted in an erosion of prime ministerial authority, as decisions are often made through negotiations and compromises among coalition members.
- **Restrictions on Prime Minister's prerogatives:** The Prime Minister may face restrictions on various prerogatives. **Decisions** regarding policies **cannot be made by the Prime Minister alone**, as they require the consensus of coalition partners.
- **More negotiation and compromise:** Coalition governments require political parties of different ideologies to come together both before and after elections to form a government. The Prime Minister plays a crucial role in facilitating these discussions and finding common ground among diverse perspectives.

PARLIAMENTARY EXECUTIVE AT THE STATE LEVEL

- Similar parliamentary executive exists at the state level.
- Governor of the State appointed by the President on the advice of the central government.
- Though the Chief Minister like the Prime Minister is the leader of the majority party in the Assembly, the Governor has more discretionary powers.
- However, the main principles of the parliamentary system operate at the State level too.

PERMANENT EXECUTIVE: BUREAUCRACY

BUREAUCRACY

- Executive organ of the government includes the **Prime Minister, the ministers and a large organisation called the bureaucracy**.
- The bureaucracy is also known as the **administrative machinery or civil service**.
- It comprises **trained and skilled officers** who work as permanent employees of the government.
- These officers **assist ministers in formulating policies** and implementing them.

Classification of Civil Services



ROLE OF BUREAUCRACY

- **Professionalism:** It plays a crucial role in faithfully and efficiently participating in policy drafting and implementation, even when there are changes in government or policies.
- **Political Neutrality** The bureaucracy is expected to be **politically neutral, not taking any political position on policy matters.**
- **Administrative Control:** In a democracy, elected representatives and ministers are in charge of the government, with the administration **under their control and supervision.**
 - The bureaucracy cannot act in violation of policies adopted by the legislature, and it is the responsibility of ministers to retain political control over the administration.

INDIAN BUREAUCRACY SYSTEM

- **Complex System:** The Indian bureaucracy is a complex system consisting of **All-India services, State services, employees of local governments, and technical and managerial staff** running public sector undertakings.
- The Constitution emphasizes the importance of a non-partisan and professional bureaucracy, selected on the basis of merit through bodies like the **Union Public Service Commission and State Public Service Commissions.**
- **Representation and Reservations:** The Constitution ensures that the bureaucracy represents all sections of society, **including Dalits, Adivasis, women, and other backward classes**, through job reservations. These provisions aim to create a more inclusive and diverse bureaucracy.
- **Role of IAS and IPS Officers:** Officers selected through the Union Public Service Commission for the Indian Administrative Service (IAS) and Indian Police Service (IPS) constitute the backbone of the higher-level bureaucracy.
 - Collectors, who hold important positions at the district level, are typically IAS officers and **work under the supervision of the State government.**
 - However, **IAS and IPS officers are appointed by the central government**, and their service conditions and disciplinary actions are under its control.
- Apart from the IAS and the IPS officers appointed by the UPSC, the administration of the State is **looked after by officers appointed through the State Public Service Commissions.**
- Members of the Public Service Commissions are appointed for a **fixed term.** Their removal or suspension is subject to a thorough enquiry made by a judge of the Supreme Court.

CHALLENGES AND CONCERNS REGARDING BUREAUCRACY

- **Lack of Accessibility:** The bureaucracy is often perceived as powerful, which may deter people from approaching government officers.
- **Insensitivity:** It is a common experience that the bureaucracy can be insensitive to the demands and expectations of ordinary citizens.
- **Need for Democratic Control:** Effective handling of bureaucratic issues requires control by democratically elected governments.
 - Excessive political interference can turn the bureaucracy into a tool for politicians, compromising its impartiality and effectiveness.

- **Protection and Accountability:** Concerns exist about protecting civil servants from political interference in the performance of their duties.
 - There is a perceived lack of provisions to ensure the accountability of the bureaucracy to citizens. Measures like the Right to Information are expected to enhance the bureaucracy's responsiveness and accountability.

Points to Remember

- It is this role of the Prime Minister which led **Pt. Nehru** to describe him as '**the linchpin of Government**'.
- **There is no time limit on the President for giving his assent to a bill.**
 - In 1986, the Indian Parliament passed the Indian Post office (amendment) bill, which faced criticism for its potential impact on press freedom.
 - The President at that time, Gyani Zail Singh, did not make a decision on the bill. When his term ended, the succeeding President, Venkataraman, finally sent the bill back to Parliament for reconsideration.
 - However, by then, a new government had been elected in 1989, belonging to a different coalition, and they did not reintroduce the bill.
 - Therefore, Zail Singh's delay in giving assent effectively prevented the bill from becoming law.

QUESTIONS

1. Which one of the following statements about the executive branch of government is correct?
 - a. The executive branch is responsible for the implementation of laws and policies adopted by the legislature.
 - b. The executive branch is primarily involved in framing policy and making important decisions.
 - c. The executive branch consists only of presidents, prime ministers, and ministers.
 - d. The permanent executive refers to the heads of government and their ministers.

Answer: A

Explanation:

- **Option (a) is correct: The executive branch of government is responsible for carrying out and enforcing the laws and policies that are created by the legislature.** This branch is tasked with implementing and executing the decisions made by the legislature, which includes implementing laws, managing government programs, and making sure that policies are implemented effectively.
- **Option (b) is incorrect: While the executive branch may be involved in the process of policy formulation and decision-making, its primary role is the implementation and execution of laws and policies.** The actual framing of policy is often the responsibility of the legislature, where laws are proposed, debated, and adopted.
- **Option (c) is incorrect: The executive branch includes not only the heads of state, such as presidents or prime ministers, but also encompasses a wider range of individuals and agencies involved in the administration of government.** This can include various departments, agencies, civil servants, and other officials who work under the direction of the political executive.
- **Option (d) is incorrect: The permanent executive refers to the civil servants and administrative machinery of the government who are responsible for the day-to-day administration and implementation of policies.** While the heads of government and their

ministers are part of the executive branch, the permanent executive extends beyond them and includes the career bureaucrats and officials who serve in various administrative roles.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

2. Consider the following statements about the different types of executive systems in various countries:

1. In a presidential system, the president is the Head of state as well as head of government.
2. In a parliamentary system, the president or monarch serves as the head of government, whereas the prime minister is the nominal head of state.
3. A semi-presidential system features both a president and a prime minister, with the president holding significant day-to-day powers.
4. The United States, Brazil, and most Latin American nations follow a parliamentary system, whereas Germany, Italy, and Japan have a presidential system.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: B

Explanation:

- **Statement 1 is correct: In a presidential system, The president is both the head of state and the head of government, and they have significant executive powers.**
- **Statement 2 is incorrect: In a parliamentary system, the prime minister serves as the head of government, not the president or monarch.** The president or monarch in a parliamentary system is typically the ceremonial head of state and holds limited executive powers.
- **Statement 3 is correct: In a semi-presidential system, such as those in France, Russia, and Sri Lanka, both a president and a prime minister exist.** The president holds significant day-to-day powers and is actively involved in the executive functions of the government.
- **Statement 4 is incorrect: The United States, Brazil, and most Latin American nations follow a presidential system where the president is the head of state and government. Germany, Italy, and Japan, on the other hand, have parliamentary systems where the prime minister is the head of government.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

3. Consider the following statements about the positions of the President and Prime Minister in Sri Lanka and India:

1. In Sri Lanka, the President is directly elected by the people, while in India, the Prime Minister is not directly elected by the people.
2. The President in Sri Lanka is both the Head of State and the Head of Government, while in India, the Prime Minister is the Head of Government.
3. In the impeachment process, the Supreme Court plays a similar role in both Sri Lanka and India, where the Speaker can refer the matter to the Supreme Court based on the allegations.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct:** In Sri Lanka, the President is directly elected by the people in a national election. On the other hand, in India, the Prime Minister is not directly elected by the people. The Prime Minister is the leader of the political party or coalition that has the majority in the Lok Sabha (the lower house of Parliament), and the President of India appoints the Prime Minister based on their recommendation.
- **Statement 2 is correct:** In Sri Lanka, the President holds both the position of Head of State and Head of Government. They have executive powers and serve as the chief executive. In India, however, the President is the Head of State, while the Prime Minister is the Head of Government. The Prime Minister is responsible for the day-to-day administration of the country.
- **Statement 3 is incorrect:** In India, the impeachment process for the President is different from that of Sri Lanka. In India, the President can be impeached by a special majority of the Parliament, which includes a majority of the total membership and a two-thirds majority of the members present and voting, for violating the Constitution. The process is initiated by a motion in either the Lok Sabha or the Rajya Sabha (the two houses of Parliament), which is then investigated by a committee. If the committee finds the President guilty, an impeachment motion can be passed in both houses of Parliament.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

4. Consider the following statements:

1. The parliamentary system in India was chosen over the presidential system due to concerns about the potential for a personality cult and the need for a strong executive with checks and balances.
2. The executive power of the Union in India is formally vested in the President, who exercises these powers through the Council of Ministers headed by the Prime Minister.
3. The President of India is elected directly by the citizens for a period of five years.
4. The President can be removed from office only by Parliament through the process of impeachment.
5. The Prime Minister and the Council of Ministers have the real executive power in India and the President typically follows their advice.

Which of the statements given above are correct?

- a. 1, 3 and 4 only
- b. 1, 2, 4 and 5 only
- c. 2 and 3 only
- d. 1, 2, 3, 4 and 5

Answer: B

Explanation:

- **Statement 1 is correct:** The parliamentary system in India was chosen over the presidential system because of concerns about the potential for a personality cult and the need for a strong executive with checks and balances.
- **Statement 2 is correct:** The executive power of the Union in India is formally vested in the President, who exercises these powers through the Council of Ministers headed by the Prime Minister.
- **Statement 3 is incorrect:** The President of India is not elected directly by the ordinary citizens. Instead, the President is elected indirectly by the elected Members of Legislative Assembly (MLAs) and Members of Parliament (MPs) in accordance with the principle of proportional representation with single transferable vote.

- **Statement 4 is correct: The President can be removed from office only by Parliament through the process of impeachment, which requires a special majority.** The grounds for impeachment are limited to the violation of the Constitution.
- **Statement 5 is correct: The Prime Minister and the Council of Ministers have the real executive power in India, and the President typically follows their advice.** The President's powers are mostly ceremonial and exercised on the advice of the Council of Ministers.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

5. Which of the following statements about the discretionary powers of the President in the parliamentary system are correct?
1. The President can send back the advice given by the Council of Ministers and ask for reconsideration.
 2. The President can exercise a pocket veto by withholding assent to bills.
 3. The President has the authority to appoint the Prime Minister in situations where no party has a clear majority.
 4. The President can unilaterally remove a minister from the Council of Ministers.
 5. The President holds a pre-eminent position in the government and exercises absolute control over the Council of Ministers.

Select the correct answer using the code given below:

- a. 1, 3 and 5 only
- b. 2, 3, 4 and 5
- c. 1, 2 and 3 only
- d. 1, 2, 3 and 5

Answer: C

Explanation:

- **Statement 1 is correct: The President has the discretionary power to return the advice given by the Council of Ministers and ask them to reconsider the decision.** If the President believes that the advice has flaws, legal issues, or is not in the best interest of the country, they can request reconsideration. Although the Council can still send back the same advice, the President's request carries significant weight.
- **Statement 2 is correct: The President has the power of veto, which allows them to withhold or refuse to give assent to bills (excluding Money Bills) passed by the Parliament.** If the President withholds assent, the bill can be sent back to the Parliament for reconsideration. However, there is no specific time limit mentioned in the Constitution for the President to send the bill back, which effectively gives the President the power to exercise a 'pocket veto' by keeping the bill pending indefinitely.
- **Statement 3 is correct: In situations where no party has a clear majority in the Lok Sabha (the lower house of Parliament), the President has the discretionary power to appoint the Prime Minister.** The President has to use their own judgment to determine which leader or coalition has the support of the majority or the capability to form and run the government.
- **Statement 4 is incorrect: The President does not have the authority to unilaterally remove a minister from the Council of Ministers.** A minister can be removed if the Prime Minister or the concerned minister tenders their resignation, or if the Prime Minister advises the President to remove the minister from the Council of Ministers.
- **Statement 5 is incorrect: The Prime Minister holds a pre-eminent position in the government in a parliamentary system.** The Council of Ministers is headed by the Prime Minister, and they exercise control and leadership over the Council. The Prime Minister's position is crucial for the functioning of the government and they act as a link between the Council of Ministers, the President, and the Parliament.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

6. Consider the following statements about the Vice President of India:

1. The Vice President is elected for a term of five years.
2. The Vice President may be removed from his office by a resolution of the Lok Sabha passed by a majority and agreed to by the Rajya Sabha.
3. The Vice President serves as the ex-officio Chairman of the Lok Sabha.
4. The Vice President assumes the office of the President in the event of a vacancy due to death, resignation and impeachment.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: B

Explanation:

- **Statement 1 is correct: The Vice President of India is elected for a term of five years, just like the President.** However, unlike the President, the Vice President is not elected by an electoral college that includes members of State legislatures.
- **Statement 2 is incorrect: The Vice President of India can only be removed from office by a resolution passed by a majority in the Rajya Sabha (the upper house of Parliament) and agreed to by the Lok Sabha (the lower house of Parliament).** Both houses of Parliament need to be involved in the removal process.
- **Statement 3 is incorrect: The Vice President of India serves as the ex-officio Chairman of the Rajya Sabha, not the Lok Sabha.** The Chairman of the Lok Sabha is the Speaker of the Lok Sabha.
- **Statement 4 is correct: In the event of a vacancy in the office of the President of India due to death, resignation, removal by impeachment, or any other reasons, the Vice President assumes the office of the President.** However, the Vice President serves as the President only until a new President is elected.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

7. According to the 91st Amendment Act (2003), what is the maximum size of the Council of Ministers in relation to the total number of members in the House of the People or Assembly?

- a. It should not exceed 15 percent of the total number of members in the House of the People or Assembly in the case of the States.
- b. It should not exceed 25 percent of the total number of members in the House of the People or Assembly.
- c. It should not exceed 10 percent of the total number of members in the House of the People or Assembly.
- d. It should not exceed 20 percent of the total number of members in the House of the People or Assembly.

Answer: A

Explanation:

- **Option (a) is correct: The 91st Amendment Act (2003) imposed a restriction on the size of the Council of Ministers.** Prior to this amendment, the size of the Council of Ministers was determined based on the exigencies of time and the requirements of the situation, which often led to a large size of the Council. **To address this issue, the 91st Amendment Act was**

enacted, which stated that the Council of Ministers should not exceed 15 percent of the total number of members in the House of the People (or Assembly, in the case of the States).

This amendment aimed to prevent the formation of excessively large Councils of Ministers and the indiscriminate appointment of ministers solely for political gain.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

8. Consider the following statements about the bureaucracy in India:

1. The bureaucracy consists of elected representatives and ministers who implement government policies.
2. The administrative officers have the authority to act independently of the policies adopted by the legislature.
3. The bureaucracy is politically neutral and does not take any political position on policy matters.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is incorrect: The bureaucracy consists of trained and skilled officers who work as permanent employees of the government.** While they assist the ministers in formulating and implementing policies, they are not elected representatives or ministers themselves.
- **Statement 2 is incorrect: The administrative officers cannot act in violation of the policies adopted by the legislature.** They are expected to assist in implementing the policies formulated by the elected representatives and ministers.
- **Statement 3 is correct: In a democracy, the bureaucracy is expected to be politically neutral and not take any political position on policy matters.** Their role is to faithfully and efficiently participate in drafting and implementing policies, regardless of the party in power.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive

9. How many of the following statements about the Prime Minister and Council of Ministers in India are correct?

1. The Prime Minister is the head of the Council of Ministers.
2. The Prime Minister is appointed by the President of India based on the majority support in the Lok Sabha.
3. The Council of Ministers dissolution occurs automatically upon the Prime Minister's death or resignation.
4. The Council of Ministers is collectively responsible to the Lok Sabha.

Select the correct answer using the code given below:

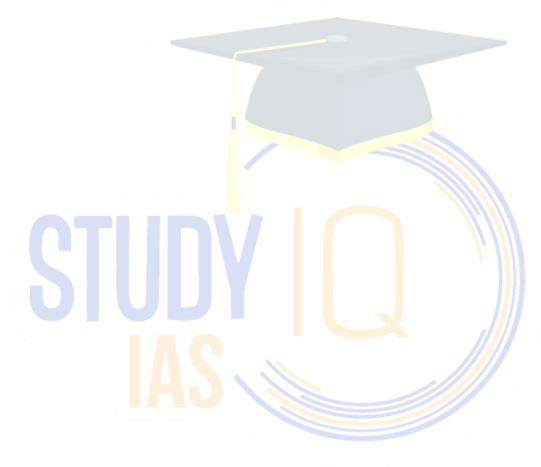
- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The Prime Minister of India is the head of the Council of Ministers and is considered the most important functionary in the government.**
- **Statement 2 is correct: The Prime Minister is appointed by the President of India, but the appointment is made based on the majority support in the Lok Sabha (the lower house of Parliament).** The Prime Minister must have the support of the majority to assume office.
- **Statement 3 is correct: The Council of Ministers is formed under the leadership of the Prime Minister, and it ceases to exist automatically if the Prime Minister resigns, dies, or is dismissed from the position.**
- **Statement 4 is correct: The Council of Ministers is collectively responsible to the Lok Sabha. If a vote of no confidence is passed against a single minister, it leads to the resignation of the entire Council of Ministers.** This principle of collective responsibility ensures that the ministry functions as a united body, and individual ministers cannot dissociate themselves from the decisions and policies of the government.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 4/ Executive



Chapter 5: Legislature

INTRODUCTION

Elected legislatures derive their authority from the people and operate with the people's best interests in mind. Understanding the workings of these elected bodies is crucial for preserving democratic governance. Additionally, gaining knowledge about the structure and functioning of both the parliament and state legislatures in India is vital, as they play significant roles in upholding democratic principles within the government.

FUNCTIONS OF LEGISLATURE IN A DEMOCRACY

- **Diverse Functions:** The legislature goes beyond being a mere law-making body, encompassing multiple roles in the democratic political process.
- **Center of Democratic Process:** As the focal point, the legislature plays a pivotal role in democratic governance.
- **Action-packed:** The legislature is characterized by various activities, including walkouts, protests, demonstrations, unanimity, concern, and cooperation, each serving significant purposes.
- **Essential for Genuine Democracy:** A representative, efficient, and effective legislature is indispensable for the existence of a genuine democracy.
- **Ensuring Accountability:** The legislature facilitates the accountability of representatives to the people they serve.
- **Foundation of Representative Democracy:** The legislature's dynamic functions and responsibilities form the bedrock of a successful representative democracy.

In many democracies, legislatures are increasingly overshadowed by the executive branch. In India, the Cabinet takes the lead in formulating policies and setting the governance agenda. While some critics argue that Parliament's significance has diminished, even powerful cabinets must maintain majority support in the legislature. The democratic potential of Parliament lies in its role as an open and inclusive platform for debate. Being representative of all branches of government, Parliament holds the authority to appoint and remove the government, making it a crucial democratic institution.

NEED FOR TWO HOUSES OF PARLIAMENT

MEANING OF PARLIAMENT & STATE LEGISLATURE

The term "Parliament" denotes the legislative body at the national level, while the legislative body of individual States is referred to as the "State legislature."

BICAMERAL LEGISLATURE

- The Indian Parliament consists of two houses, making it a bicameral legislature.
- The two houses are the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).
- The Constitution allows States to choose between a unicameral or bicameral legislature.
- Currently, only six States in India have opted for a bicameral legislature.
- The bicameral system provides a distinct structure for legislative processes in both the national and state levels of governance.
- The states having a bicameral legislature are Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telangana & Uttar Pradesh

FUNCTIONS OF BICAMERAL LEGISLATURE

- **Bicameral Legislature for Diversity:** Countries with large size and diverse populations prefer a bicameral national legislature to ensure representation for all sections of society and all geographical regions.
- **Reconsideration and Double Check:** A bicameral system allows for every decision to be reviewed twice, as each decision made in one house is sent to the other for further consideration.
- **Thorough Discussion of Bills and Policies:** With every bill and policy being discussed twice, a comprehensive examination is ensured.

- **Enhanced Checks and Balances:** Bicameralism provides a system of checks and balances, preventing hasty decisions by allowing reconsideration in the other house.
- **Inclusive Governance:** Bicameral legislatures promote inclusive decision-making and representation, contributing to a more balanced and representative governance process.

UPPER HOUSE OF THE PARLIAMENT (RAJYA SABHA)

Both Houses of Parliament in India have distinct representation methods. The Rajya Sabha represents the States and is indirectly elected. State residents elect members to the State Legislative Assembly, who then select Rajya Sabha members.

PRINCIPLES OF REPRESENTATION IN RAJYA SABHA

- **Symmetrical Representation:** This principle suggests providing equal representation to all parts of the country, irrespective of their size or population.
 - In this approach, each region or part is given an equal number of representatives in the second chamber of the legislature.
- **Population-based Representation:** The alternative method involves allocating representation based on the population of each region or part.
 - Regions with larger populations would have more representatives in the second chamber, while regions with smaller populations would have fewer representatives.

In the USA, the Senate provides equal representation to every state, ensuring state equality despite their size differences. However, this means smaller states have the same representation as larger states. In contrast, the Rajya Sabha in India follows a different representation system, with the Constitution's fourth schedule fixing the number of members to be elected from each state.

MEMBERS AND THEIR TENURE IN RAJYA SABHA

- **Tenure and Re-election:** Rajya Sabha members serve a six-year term and are eligible for re-election.
- **Staggered Terms:** Members do not complete their terms simultaneously, with one-third of the members' terms ending every two years.
- **Continuity as a Permanent House:** The Rajya Sabha is always active and never fully dissolved, earning its title as the "permanent House" of Parliament.
- **Advantage of Continuity:** Even when the Lok Sabha is dissolved and elections are pending, the Rajya Sabha can convene for urgent business.
- **Elected and Nominated Members:** The Rajya Sabha comprises elected members and also has twelve nominated members appointed by the President.
- **Nominations Criteria:** Nominated members are chosen from individuals who have made notable contributions in literature, science, art, and social service.
- **Distinguished Representation:** The nominated members enhance the diversity and expertise within the Rajya Sabha.
- **Distinctive Role:** With its unique features, the Rajya Sabha plays a crucial role in the functioning of India's bicameral Parliament.

LOWER HOUSE OF THE PARLIAMENT (LOK SABHA)

REPRESENTATION IN LOK SABHA

- **Direct Elections:** Both the Lok Sabha (national) and State Legislative Assemblies are directly elected by the people.
- **Territorial Constituencies:** The country (or state) is divided into territorial constituencies with approximately equal populations for the purpose of elections.
- **Universal Adult Suffrage:** Every eligible individual has the right to vote, and each vote carries equal value.
- **One Representative per Constituency:** One representative is elected from each constituency through the electoral process.
- **Current Constituencies:** As of now, there are 543 constituencies in the Lok Sabha.

MEMBERS AND THEIR TENURE IN RAJYA SABHA

- **Term of Lok Sabha:** The Lok Sabha is elected for a maximum period of five years.

- **Dissolution of Lok Sabha:** Before the completion of five years, the Lok Sabha can be dissolved if no party or coalition can form the government or if the Prime Minister advises the President to hold fresh elections.
- **Fresh Elections:** In case of dissolution, new elections are conducted to elect the members of the Lok Sabha.

FUNCTIONS OF PARLIAMENT

- **Legislative Function:** The Parliament enacts laws for the country, though the actual drafting is often done by the bureaucracy under ministerial supervision, and the Cabinet plays a significant role in decision-making. Bills introduced by non-minister members need government support to pass.
- **Control of Executive and Ensuring Accountability:** One of the vital functions of Parliament is to ensure the executive remains accountable and within its authority, responsible to the people who elected them.
- **Financial Function:** Parliament controls taxation and government spending, approving new taxes and monitoring budgetary allocations to implement programs and prevent overspending.
- **Representation:** Parliament represents diverse views of members from different regions, social, economic, and religious backgrounds across the country.
- **Debating Function:** The highest forum of debate in the country, Parliament allows free discussion on any issue, facilitating democratic decision-making.
- **Constituent Function:** Parliament has the power to discuss and enact changes to the Constitution, requiring approval from both Houses for constitutional amendments.
- **Electoral Functions:** Parliament elects the President and Vice President of India.
- **Judicial Functions:** Parliament considers proposals for the removal of President, Vice President, and Judges of High Courts and Supreme Court.

DIFFERENCE OF POWERS BETWEEN RAJYA SABHA AND LOK SABHA

Powers of Lok Sabha	Powers of Rajya Sabha
<ul style="list-style-type: none"> • Legislation: The Parliament is responsible for making laws related to subjects listed in the Union List and Concurrent List. • Bills: It has the authority to introduce and pass both money and non-money bills. • Financial Matters: Parliament approves proposals for taxation, budgets, and annual financial statements. • Executive Oversight: It exercises control over the executive through various means such as questioning, supplementary questions, resolutions, motions, and no-confidence motions. • Constitutional Amendments: Parliament holds the power to amend the Constitution. • Emergency Proclamation: It can approve the imposition of an emergency in exceptional circumstances. • Appointments and Removals: Parliament elects the President and Vice President of the country and has the authority to remove Judges of the Supreme Court and High Courts. • Committees and Reports: The Parliament establishes committees and commissions to 	<ul style="list-style-type: none"> • Legislation Approval: The Parliament considers and approves non-money bills, and it proposes amendments to money bills. • Constitutional Amendments: Parliament has the authority to approve changes to the Constitution. • Executive Control: It exercises control over the executive by engaging in question sessions, introducing motions, and proposing resolutions. • Appointments and Removals: Parliament plays a role in the election and removal of the President, Vice President, Judges of the Supreme Court, and High Court. • Vice President Removal: The Parliament has the sole authority to initiate the procedure for the removal of the Vice President. • Delegation of Power: It can grant the Union parliament the power to make laws on subjects listed in the State List.

investigate and consider their reports for informed decision-making.	
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SPECIAL POWERS OF RAJYA SABHA

- **Representation for States:** The Rajya Sabha serves as an institutional mechanism to provide representation to the States, safeguarding their powers.
- **Consent for Matters Affecting States:** Any matter that affects the States requires the consent and approval of the Rajya Sabha, ensuring protection of State interests.
- **Transfer of Subjects:** If the Union Parliament intends to transfer a subject from the State List to the Union List or Concurrent List for national interest, Rajya Sabha's approval is necessary.
- **Strength of Rajya Sabha:** This provision strengthens the Rajya Sabha's role and influence.
- **Party Representation Over State Representation:** Despite its purpose, members of the Rajya Sabha often prioritize party interests over representing their respective States.
- **Experience and Observation:** Empirical evidence reveals that Rajya Sabha members tend to represent their parties more than their States.

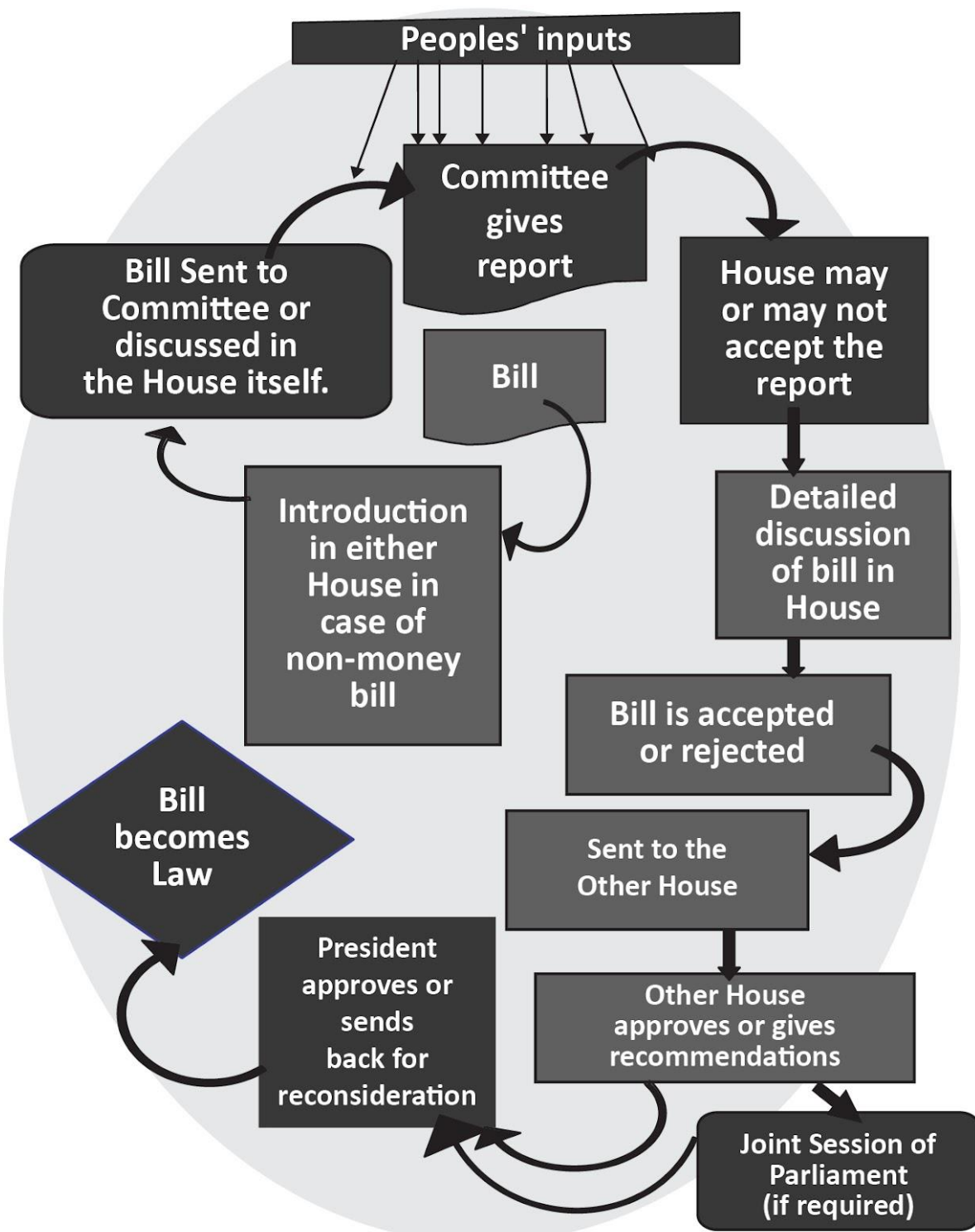
LIMITATIONS OF LOK SABHA

- **Money Bills in Rajya Sabha:** The Rajya Sabha lacks the authority to initiate, reject, or amend money bills.
- **Responsibility of Council of Ministers:** The Council of Ministers is accountable to the Lok Sabha, not the Rajya Sabha.
- **Rajya Sabha's Power over Government:** While the Rajya Sabha can criticize the government, it does not possess the power to remove it.

In our democratic system, the Rajya Sabha is not directly elected by the people but by the MLAs, leading the Constitution to limit certain powers for this house. According to the principles of our Constitution, ultimate authority lies with the people, making it logical for representatives directly elected by the people to possess essential powers like government removal and financial control. However, in various other domains, such as passing non-money bills, constitutional amendments, and impeaching the President and removing the Vice President, both the Lok Sabha and Rajya Sabha enjoy equal powers.

LAW MAKING PROCESS IN PARLIAMENT

The primary role of any legislature is to create laws for its citizens, following a well-defined procedure outlined in the Constitution and established conventions. The legislative process, as witnessed by tracking a bill, is a technical and sometimes arduous endeavour.



TYPES OF BILLS IN PARLIAMENT

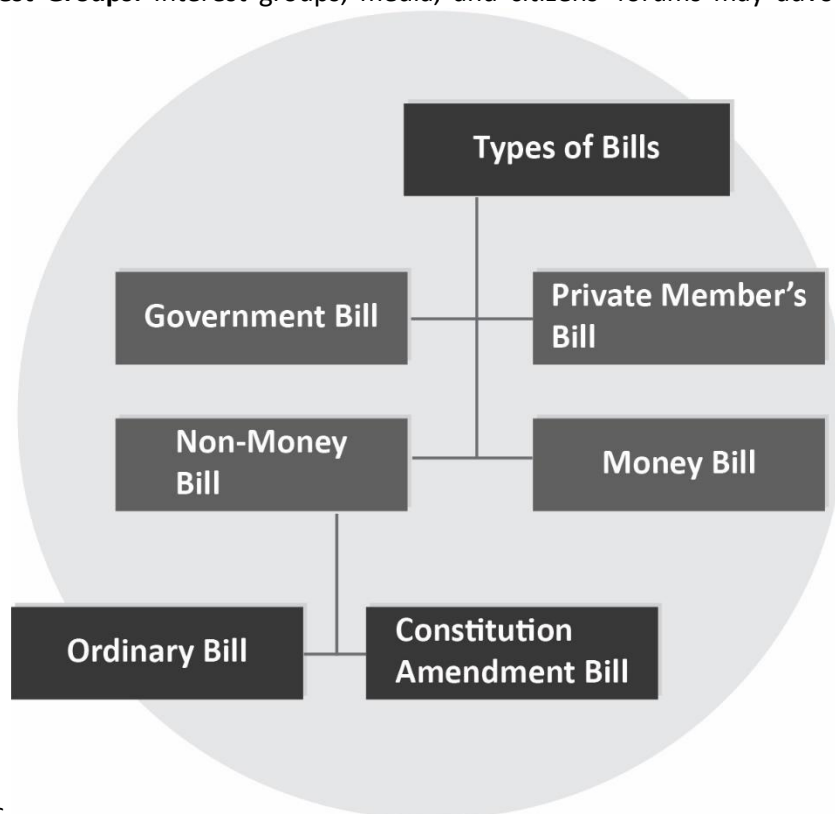
A bill represents a preliminary version of a proposed law, and there are various types of bills. If a bill is introduced by a non-minister, it is known as a private member's bill. On the other hand, if a minister proposes the bill, it is referred to as a government bill.

INTRODUCTION OF BILLS IN PARLIAMENT

FIRST STAGE OF DISCUSSION

- **Pre-Introduction Debate:** Prior to presenting a bill in Parliament, considerable debate occurs on its necessity.

- **Political Pressures:** Political parties may urge the government to introduce bills to fulfil election promises or enhance electoral prospects.
- **Influence of Interest Groups:** Interest groups, media, and citizens' forums may advocate for



specific legislations.

- **Law-making as a Political Process:** The process of law-making goes beyond legal procedures and involves political considerations.
- **Considerations in Bill Preparation:** The drafting of a bill considers resource requirements, potential support or opposition, and its impact on the ruling party's electoral prospects.
- **Challenges in Coalition Politics:** In the era of coalition politics, proposed bills must gain acceptance from all coalition partners.
- **Cabinet Decision-making:** The Cabinet considers practical aspects before deciding on enacting a law.
- **Policy Approval and Drafting:** Once the Cabinet approves the legislation's policy, the drafting process commences, typically handled by the relevant ministry.
- **Collaboration Among Ministries:** In certain cases, multiple ministries collaborate, as seen in the example of raising the marriageable age of girls.
- **Parliamentary Introduction:** Bills can be introduced in the Lok Sabha or Rajya Sabha by House members, with money bills specifically introduced in the Lok Sabha and later sent to the Rajya Sabha.

SECOND STAGE OF DISCUSSION

In the law-making process, a significant portion of bill discussions occurs in committees, often referred to as miniature legislatures. After the committee's recommendations, they are forwarded to the House, constituting the second stage in the law-making process.

THIRD STAGE DISCUSSION

- **Voting Stage:** In the third and final stage, the bill is subject to voting for approval.
- **Passage in Both Houses:** For non-money bills, passage is required in both Houses of Parliament.
- **Resolution of Disagreement:** If disagreement arises between the two Houses, a Joint Session of Parliament attempts to resolve the deadlock.

- **Favour towards Lok Sabha:** Historically, decisions in Joint Sessions have favoured the Lok Sabha in resolving disputes.
- **Money Bill Approval or Suggestion:** In the case of money bills, the Rajya Sabha can either approve the bill or suggest changes but cannot reject it.
- **Deemed Passage of Money Bill:** If the Rajya Sabha takes no action within 14 days, the bill is considered to be passed.
- **Acceptance of Amendments:** The Lok Sabha may or may not accept amendments proposed by the Rajya Sabha for the bill.
- **Conclusion of Law-making Process:** The final stage concludes the law-making process, determining the fate of the bill in both Houses of Parliament.
- **Enactment of law:** Once a bill is approved by both Houses of Parliament, it is forwarded to the President for his assent. Upon receiving the President's approval, the bill becomes law and is officially enacted.

CONTROL OF PARLIAMENT OVER EXECUTIVES

- **Executive Composition:** In a parliamentary democracy, the executive emerges from the majority party or coalition in the Lok Sabha.
- **Parliament's Role:** Active and vigilant Parliament is crucial to check the executive's actions effectively.
- **Ways to Control Executive:** Parliament has various means to control the executive's powers.
- **Power and Freedom of Legislators:** Legislators, as people's representatives, must have the power and freedom to work effectively and without fear.
- **Parliamentary Privilege:** Members have immunity from action for their statements made in the legislature, ensuring open representation.
- **Presiding Officer's Role:** The presiding officer holds authority in deciding matters related to breach of privilege.
- **Empowering the Legislature:** Parliamentary privileges aim to enable legislators to represent the people and exercise effective control over the executive.

PARLIAMENTARY TOOLS TO EXERCISE CONTROL OVER EXECUTIVES

In a parliamentary system, the legislature plays a crucial role in holding the executive accountable at different stages, including policy-making, law or policy implementation, and the post-implementation phase. To achieve this, the legislature utilizes several mechanisms, such as deliberation and discussion, granting or refusing approval to laws, exercising financial control, and employing a no-confidence motion. These devices empower the legislature to effectively oversee and ensure executive accountability in the functioning of the government.

DELIBERATION AND DISCUSSION

- **Opportunity for Deliberation:** During the law-making process, members of the legislature deliberate on executive policy direction and implementation methods.
- **Control through General Discussions:** Control can also be exercised during general discussions in the House.
- **Question Hour:** Daily session where Ministers respond to searching questions raised by members, making it an effective method of keeping vigil on the executive and administrative agencies.
 - **Interest and Attendance:** Members actively participate in the question hour, with maximum attendance recorded during this time.
 - **Public Interest Issues:** Questions aim to elicit information on public interest matters such as price rise, food availability, social atrocities, riots, and black-marketing.
 - **Criticism and Representation:** The question hour allows members to criticize the government and represent the concerns of their constituencies.
- **Zero-hour discussion:** In the Zero Hour, members have the freedom to raise any matter they consider important, though ministers are not obligated to respond.

- **Half-an-hour discussion:** In this the discussion is on matters of public importance, and the option of an adjournment motion exists.
- **Heated Discussions:** Intense discussions often lead to members raising their voices, protesting, or walking out to make their points, resulting in a loss of legislative time.
- **Political Techniques for Accountability:** Some actions are political techniques used to gain concessions from the government and ensure executive accountability.

APPROVAL AND RATIFICATION OF LAWS

- **Power of Ratification:** Parliamentary control is exercised through the power of ratification, where a bill can become a law only with Parliament's approval.
- **Approval Not Guaranteed:** Even with a disciplined majority, government approvals are not guaranteed; they result from intense negotiations among ruling party or coalition members and the government and opposition.
- **Majority Disparities:** If the government holds a majority in the Lok Sabha but not in the Rajya Sabha, concessions may be required to gain approval from both Houses.
- **Historical Instances:** During the Janata Party rule in 1977 and N.D.A. rule in 2000, significant concessions were made to secure approval from both Houses due to the majority disparity.
- **Failed Enactments:** Some bills, like the Lok Pal Bill, have failed enactment, and the Prevention of Terrorism bill (2002) was rejected by the Rajya Sabha.
- **Uncertainty in Legislative Process:** Parliamentary control and ratification involve complex negotiations and uncertainties in the legislative process.

FINANCIAL CONTROL

- **Constitutional Obligation:** The preparation and presentation of the budget for legislative approval are a constitutional obligation of the government.
- **Control over Finances:** The budget process empowers the legislature to exercise control over the government's financial resources.
- **Discussion and Enquiry:** The Lok Sabha discusses the reasons for the government's financial requirements and can inquire into fund misuse based on reports from the Comptroller and Auditor General and Public Accounts committees.
- **Policy Concerns:** Legislative control extends beyond financial propriety; it also encompasses concerns about government policies reflected in the budget.
- **Policy Control:** Through financial control, the legislature effectively controls the government's policies.

NO CONFIDENCE MOTION

- **Significance of No-Confidence Motion:** The no-confidence motion is the most potent tool for ensuring executive accountability in Parliament.
- **Condition for Effectiveness:** For the motion to be effective, the government must lack the support of its party or coalition with a majority in the Lok Sabha.
- **Resignations Due to Lack of Confidence:** Since 1989, several governments have been compelled to resign as they lost the confidence of the Lok Sabha, primarily due to the withdrawal of support from coalition partners.
- **Impact on Executive Stability:** The no-confidence motion has emerged as a critical factor affecting the stability of governments in parliamentary systems, highlighting the importance of coalition management and maintaining support in the Lok Sabha.

The Parliament's effective control over the executive and ensuring a responsive government relies on several factors. Ample time for the House, active member participation, and willingness to compromise between the government and opposition are essential. However, in the past two decades, there has been a decline in Lok Sabha and State Legislative Assemblies' sessions and debate duration. Additionally, issues like the absence of quorum and opposition members' session boycotts have plagued parliamentary functioning. These hindrances deprive the House of its power to control the executive through meaningful discussions, raising concerns about the overall effectiveness of the legislative process in holding the government accountable.

ROLE OF COMMITTEES IN PARLIAMENT

The appointment of committees is a crucial aspect of the legislative process, serving various purposes in addition to law-making. These committees play a vital role in the House's daily business since Parliament meets only during sessions, limiting its available time.

- The legislative process requires comprehensive examination of issues, demanding more time and attention from the Parliament.
- Additionally, crucial functions such as scrutinizing ministry grants, reviewing departmental expenses, and investigating corruption cases also consume time.
- The committee system has alleviated the Parliament's workload, with many significant bills being referred to committees.
 - The Parliament typically approves committee work with occasional modifications, rarely rejecting their suggestions.
 - However, ultimate approval from the Parliament remains a legal requirement for bills to become law or budgets to be sanctioned.

TYPES OF PARLIAMENTARY COMMITTEES

Since 1983, India has implemented a system of parliamentary standing committees, comprising over twenty departmentally related committees.

- The standing committees are responsible for overseeing the operations of various departments, examining their budgets, expenditures, and bills related to the respective department.
- Joint Parliamentary Committees (JPCs) hold a significant position in India. They can be established to discuss specific bills, like the joint committee for bill discussions, or to investigate financial irregularities. Members for these committees are selected from both Houses of Parliament.

SELF-REGULATING PROCESS OF PARLIAMENT

- Vital Functions through Debates: Parliament's essential functions are performed through meaningful and orderly debates, maintaining its dignity.
- Constitutional Provisions for Smooth Conduct: The Constitution includes provisions to ensure the smooth conduct of business, with the presiding officer being the final authority in regulating legislative affairs.
- Anti-Defection Amendment: The issue of legislators leaving parties after being elected remained unresolved for years. To address this, the anti-defection amendment (52nd amendment act) was made in 1985 and subsequently modified by the 91st amendment.
- Restricting Defection: The anti-defection amendment restricts legislators elected on one party's ticket from switching to another party.
- Presiding Officer's Authority: The presiding officer of the House holds the final authority in deciding defection cases, leading to the loss of membership and disqualification from holding political office for the defector.
- Ensuring Stability and Integrity: The anti-defection amendment aims to ensure stability, uphold the party system's integrity, and discourage opportunistic defections in the legislative process.

QUESTIONS

1. Consider the following statements about the need for two houses of Parliament in India:
 1. The establishment of two houses of Parliament allows for representation of all sections of society and geographical regions.
 2. A bicameral legislature provides a system of checks and balances.
 3. The Constitution of India mandates that all states must have a bicameral legislature.

How many of the statements given above are correct?

- a. Only one

- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: One of the reasons for having two houses of Parliament in India is to ensure representation of all sections of society and geographical regions.** The Rajya Sabha (Council of States) represents the states of India and provides a platform for states to have their voices heard at the national level.
- **Statement 2 is correct: One of the advantages of a bicameral legislature is that it provides a system of checks and balances.** Every decision taken by one house of Parliament is subject to reconsideration by the other house.
- **Statement 3 is incorrect: The Constitution of India does not mandate that all states must have a bicameral legislature.** It gives the states the option to establish either a unicameral or bicameral legislature.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

2. Consider the following statements about the Rajya Sabha:

1. The Rajya Sabha represents the states of India and is an indirectly elected body.
2. The members of the Rajya Sabha are elected by all the adult residents of the state.
3. The Sixth Schedule of the Constitution specifies the number of seats allocated to each state in the Rajya Sabha.
4. The Rajya Sabha is fully dissolved and re-elected every seven years.
5. The Rajya Sabha does not have nominated members.

Which of the statements given above are correct?

- a. 1 only
- b. 3 and 5 only
- c. 1, 3 and 4 only
- d. 1 and 5 only

Answer: A

Explanation:

- **Statement 1 is correct: The Rajya Sabha represents the states of India.** It is a body that represents the interests of the states in the Indian Parliament. Its members are indirectly elected.
- **Statement 2 is incorrect: The members of the Rajya Sabha are not directly elected by the residents of the state. Instead, they are elected by the elected members of the State Legislative Assembly.** The residents of the state elect the members of the State Legislative Assembly, and these elected members, in turn, elect the members of the Rajya Sabha.
- **Statement 3 is incorrect: The Fourth Schedule** of the Constitution specifies the number of seats allocated to each state in the Rajya Sabha based on its population and other factors.
- **Statement 4 is incorrect: Unlike the Lok Sabha (the lower house of Parliament), the Rajya Sabha is not fully dissolved and re-elected every six years.** The members of the Rajya Sabha are elected for a term of six years, but their terms are staggered. Every two years, one-third of the members retire, and fresh elections are held for those seats. This ensures continuity in the functioning of the Rajya Sabha, and it is often referred to as the 'permanent house' of Parliament.
- **Statement 5 is incorrect: The Rajya Sabha does have nominated members.** The President of India nominates these members based on their achievements and contributions in the fields of literature, science, art, and social service.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

3. Which one of the following statements about bicameralism in Germany is **not** correct?
- The two Houses are known as Federal Assembly (Bundestag) and Federal Council (Bundesrat).
 - Assembly is elected by a complex system combining direct and proportional representation for a period of four years.
 - The seats of the Bundesrat are divided among states on the basis of a range of populations.
 - The Bundesrat does vote on all legislative initiatives but it could not veto any legislation.

Answer: D

Explanation:

Option (d) is the correct answer: The two Houses are known as Federal Assembly (Bundestag) and Federal Council (Bundesrat). Assembly is elected by a complex system combining direct and proportional representation for a period of four years. The 16 federal states of Germany are represented in the Federal Council. **The 69 seats of the Bundesrat are divided among states on the basis of a range of populations.** These members are generally the ministers in the governments at the state level and are appointed, not elected, by the governments of the federal states. According to the German law, all the members from one state have to vote as a bloc as per the instructions of the state governments. Sometimes due to coalition government at the state level, they fail to reach an agreement and may have to abstain. **The Bundesrat does not vote on all legislative initiatives but all the policy areas on which the federal states have concurrent powers and are responsible for federal regulations must be passed by it. It can also veto such legislation.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

4. Consider the following statements about the Lok Sabha:
- The Lok Sabha is elected for a maximum period of six years.
 - The number of constituencies in the Lok Sabha has remained unchanged since 1971.
 - The Lok Sabha and State Legislative Assemblies are indirectly elected by the people.
 - The value of each individual's vote in the Lok Sabha is determined by their social status.

How many of the statements given above are correct?

- Only one
- Only two
- Only three
- All four

Answer: A

Explanation:

- Statement 1 is incorrect: The Lok Sabha is elected for a period of five years.** The maximum term for the Lok Sabha is five years, unless dissolved earlier.
- Statement 2 is correct: The number of constituencies in the Lok Sabha has remained unchanged since the 1971 census.**
- Statement 3 is incorrect: The Lok Sabha and State Legislative Assemblies are directly elected by the people.** The members of the Lok Sabha and State Legislative Assemblies are elected through universal adult suffrage, where each individual's vote has equal value.
- Statement 4 is incorrect: The value of each individual's vote in the Lok Sabha is equal to another.** In a democratic system, like in India, the principle of universal adult suffrage ensures that each individual's vote carries the same weight regardless of their social status.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

5. Which of the following functions are performed by the Parliament?

1. Enacting legislations
2. Ensuring accountability of the executive
3. Raising resources through taxation
4. Representing the divergent views of different groups in the country
5. Electing the President and Vice President of India
6. Considering proposals for the removal of President, Vice-President, and Judges

Select the correct answer using the code given below:

- a. 1, 2, 3, 4, 5 and 6
- b. 1, 3 and 4 only
- c. 1, 3, 5 and 6 only
- d. 2, 4, 5 and 6 only

Answer: A

Explanation:

- **Statement 1 is correct: The Parliament is responsible for creating and passing laws for the country.** While the actual drafting of bills is often done by the bureaucracy and the Cabinet, the Parliament has the authority to approve or reject these legislations.
- **Statement 2 is correct: One of the vital functions of the Parliament is to oversee and hold the executive branch (government) accountable.** It ensures that the government does not exceed its authority and remains answerable to the people who elected them.
- **Statement 3 is correct: The Parliament has control over taxation and the allocation of funds by the government.** It approves the introduction of new taxes proposed by the government and monitors the government's spending. The budget and annual financial statements serve as mechanisms for financial oversight.
- **Statement 4 is correct: The Parliament represents the various perspectives and interests of different regions, social, economic, and religious groups across the country.** Members of Parliament reflect the diversity of the nation and engage in debates and discussions to address and represent these different views.
- **Statement 5 is correct: The Parliament plays a role in the electoral process by electing the President and Vice President of India.** This function involves the participation of both Houses of Parliament, i.e., the Lok Sabha (Lower House) and the Rajya Sabha (Upper House).
- **Statement 6 is correct: The Parliament is involved in the process of considering proposals for the removal of high-ranking officials, such as the President, Vice-President, and Judges of the High Courts and the Supreme Court.** This function is part of the Parliament's judicial responsibilities.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

6. Consider the following powers of Rajya Sabha:

1. Considers and approves all money bills and make amendments to money bills.
2. Exercises control over the executive by asking questions, introducing motions and resolutions.
3. Can give the Union parliament power to make laws on matters included in the State list.

How many of the above powers are exclusive to the Rajya Sabha in a bicameral legislature?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is incorrect:** Considers and approves **non money bills and suggests amendments to money bills.**
- **Statement 2 is correct:** Exercises control over executive by asking questions, introducing motions and resolutions.
- **Statement 3 is correct:** Can give the **Union parliament power to make laws on matters included in the State list.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

7. Consider the following statements about the powers of Rajya Sabha and Lok Sabha in India:

1. Rajya Sabha has the power to remove the government.
2. Lok Sabha and Rajya Sabha both can initiate, reject, and amend money bills.
3. Lok Sabha and Rajya Sabha have equal powers in all spheres.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: D

Explanation:

- **Statement 1 is incorrect:** The Council of Ministers is responsible to the Lok Sabha and not Rajya Sabha. Therefore, **Rajya Sabha can criticise the government but cannot remove it.**
- **Statement 2 is incorrect:** **The Rajya Sabha does not have the power to initiate, reject, or amend money bills.** Only the Lok Sabha, the lower house of Parliament, has the exclusive power to initiate and pass money bills. The Rajya Sabha can only make recommendations on such bills, and the Lok Sabha has the final say.
- **Statement 3 is incorrect:** **While both the Lok Sabha and Rajya Sabha have powers in various spheres, they are not equal in all aspects.** As mentioned earlier, the Rajya Sabha does not have the power to initiate, reject, or amend money bills, which is exclusive to the Lok Sabha. Additionally, certain constitutional amendments require a special majority, with the approval of both houses but with certain provisions requiring the consent of the Rajya Sabha. So, their powers are not entirely co-equal in all spheres.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

8. In the process of making laws in the Parliament, which one of the following statements is **not** correct?

- a. When a non-minister proposes a bill, it is called private member's Bill.
- b. The assent of the President results in the enactment of a bill into a law.
- c. If there is disagreement between the two Houses on the proposed bill, attempt is made to resolve it through Joint Session of Parliament.
- d. A money bill can be introduced only in the Lok Sabha and requires the approval of both Houses for enactment.

Answer: D

Explanation:

- **Option (d) is the correct answer:** A bill is a draft of the proposed law. There can be different types of bills. When a non-minister proposes a bill, it is called private member's Bill. A bill proposed by a minister is described as Government Bill. When a bill is passed by both Houses, it is sent to the President for his assent. The assent of the President results in the

enactment of a bill into a law. If there is disagreement between the two Houses on the proposed bill, attempt is made to resolve it through Joint Session of Parliament

- **A money bill can be introduced only in the Lok Sabha, but it does not require the approval of both Houses for enactment.** After a money bill is passed by the Lok Sabha, it is sent to the Rajya Sabha for its recommendations. The Rajya Sabha can suggest amendments to the bill, but it cannot reject it. If the Rajya Sabha does not take any action on the bill within 14 days, it is deemed to have been passed by both Houses. In other words, the approval of the Rajya Sabha is not required for the enactment of a money bill.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

9. Consider the following statements about the parliamentary control over the executive in a parliamentary democracy:

1. Parliamentary privilege grants immunity to legislators for their statements made within the legislature, ensuring their freedom to work effectively.
2. The presiding officer of the legislature has the final authority in deciding matters of breach of privilege, which is crucial for maintaining effective control over the executive.
3. Parliamentary control is unsuccessful in curbing executive excesses and preventing the concentration of power in the Cabinet.
4. Deliberation and discussion, such as the Question Hour, allow members of the legislature to critique the government.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct: Parliamentary privilege grants immunity to legislators for their statements made within the legislature, ensuring their freedom to work effectively and fearlessly as people's representatives.** This privilege is essential for fostering open debate and discussion in the legislature.
- **Statement 2 is correct: The presiding officer of the legislature, such as the Speaker or the Chairman, has the final authority in deciding matters of breach of privilege.** This authority is crucial for maintaining effective control over the executive, as it ensures that the legislature can hold the executive accountable for any misconduct or violation of parliamentary rules.
- **Statement 3 is incorrect: While parliamentary control over the executive may face challenges, it is an essential aspect of a parliamentary democracy.** Parliament exercises control over the executive through various means, such as passing laws, scrutinizing government actions, conducting debates and discussions, questioning government ministers, and holding them accountable for their decisions. These mechanisms aim to curb executive excesses and prevent the concentration of power in the Cabinet.
- **Statement 4 is correct: Deliberation and discussion, including the Question Hour, provide an opportunity for members of the legislature to criticize the government and represent the concerns of their constituencies.** During the Question Hour, ministers have to respond to searching questions raised by the members, which allows for scrutiny and accountability.
-

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

10. Consider the following statements regarding the role and functions of parliamentary committees in the Indian Parliament:
1. Parliamentary committees are responsible for the day-to-day business of the House, including lawmaking and the study of issues under consideration.
 2. The primary function of parliamentary committees is to investigate cases of corruption within various departments.
 3. Joint Parliamentary Committees (JPCs) are solely responsible for discussing particular bills in the Parliament.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: Parliamentary committees are involved in the day-to-day business of the House, which includes lawmaking and the study of issues under consideration.** They conduct detailed examinations, discussions, and analysis of bills and other matters within their respective areas of responsibility.
- **Statement 2 is incorrect:** While parliamentary committees may investigate cases of corruption as part of their broader oversight role, it is not their primary function. **The primary function of parliamentary committees is to examine and review legislation, policies, budgets, and other matters pertaining to specific departments or areas of government functioning.**
- **Statement 3 is incorrect: Joint Parliamentary Committees (JPCs) are not solely responsible for discussing particular bills in Parliament.** JPCs can be formed for various purposes, including discussing specific bills or investigating financial irregularities. The members of these committees are selected from both Houses of Parliament.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

11. Consider the following statements about the regulation of Parliament and the anti-defection law:
1. The Constitution itself contains provisions for the smooth conduct of parliamentary business.
 2. The presiding officer of the legislature has the final authority in matters of regulating the business of the legislature.
 3. The anti-defection law was introduced through the 52nd amendment to the Constitution.
 4. If a member is found to have defected, they lose their membership of the House and are disqualified from holding any political office.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The Constitution of a country typically includes provisions that outline the functioning and procedures of the parliament or legislature.** These provisions

ensure the smooth conduct of parliamentary business and maintain the dignity of the institution.

- **Statement 2 is correct: The presiding officer of the legislature, such as the Speaker in the case of the Lok Sabha (Lower House) in India, holds the final authority in matters of regulating the business of the legislature.** The presiding officer ensures that the debates and discussions in the parliament are meaningful and orderly.
- **Statement 3 is correct: The anti-defection law was indeed introduced through the 52nd amendment to the Constitution in 1985 in India.**
- **Statement 4 is correct: If a member of the legislature is found to have defected, meaning they have violated the anti-defection law by leaving their party or going against party instructions, they lose their membership of the House.** In addition to losing their membership, they are also disqualified from holding any political office such as ministership.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

12. Which one of the following statements best captures the significance of a parliament in a democratic system?
- a. The legislature is primarily responsible for implementing laws and ensuring efficient governance.
 - b. The parliament serves as the focal point of democratic political processes, representing the will of the people.
 - c. The Parliament is the supreme legislative body of India.
 - d. The Parliament administers justice by interpreting the law when its meaning is in dispute.

Answer: B

Explanation:

- **Option (b) is correct:** The legislature, which includes the parliament, is the center of all democratic political processes. It is packed with various actions such as walkouts, protests, demonstrations, unanimity, concern, and cooperation. **The parliament represents the will of the people and is considered one of the most democratic and open forums of debate.** It is also recognized as the most representative organ of government. Therefore, statement B accurately captures the significance of a parliament in a democratic system.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 5/ Legislature

Chapter 6: Judiciary

INTRODUCTION

The judiciary in India is not only responsible for resolving disputes between individuals or private parties, but it also performs political functions. The Supreme Court of India is recognized as one of the most powerful courts globally. Since 1950, the judiciary has played a crucial role in interpreting and safeguarding the Constitution. Its significance lies in protecting fundamental rights, ensuring the independence of the judiciary, interpreting the Constitution, and maintaining a relationship with the Parliament of India.

NEED OF AN INDEPENDENT JUDICIARY

An independent judiciary is essential in any society for several reasons:

- **Rule of Law:** An independent judiciary upholds the principle of rule of law, which ensures that all individuals, regardless of their social or economic status, are subject to the same laws. It prevents discrimination and ensures that justice is applied fairly and impartially.
- **Protection of Rights:** The judiciary safeguards the rights of individuals by interpreting and applying laws to protect their fundamental rights and freedoms. It acts as a check on the actions of the government and ensures that citizens' rights are not violated.
- **Safeguarding Democracy:** An independent judiciary acts as a safeguard against the concentration of power and the emergence of individual or group dictatorship.

INDEPENDENCE OF JUDICIARY

INDEPENDENCE OF JUDICIARY MEANS:

- **Separation from Other Government Branches:** The judiciary should not be controlled or restrained by the **executive and legislative branches** of government in a way that hampers its ability to deliver justice.
- **Non-Interference in Judicial Decisions:** The decisions of the judiciary should be free from interference by the other organs of government.
- **Unbiased and Fearless Judges:** Judges must be able to perform their duties impartially, without any fear or favor.
- **Accountability to Constitution and Democratic Principles:** While enjoying independence, the judiciary is still accountable to the Constitution, democratic values, and the people of the country.

HOW CAN THE INDEPENDENCE OF JUDICIARY BE PROVIDED AND PROTECTED?

It can be provided and protected through several measures:

- **Appointment Process:** The judiciary's independence is ensured by keeping the legislature separate from the appointment process of judges.
 - The selection of judges is based on their qualifications, expertise in law, and experience as lawyers, rather than their political affiliations or loyalty.
- **Security of Tenure:** Judges have a fixed tenure and hold office until they reach the retirement age.
 - They can only be removed through a difficult procedure prescribed by the Constitution.
- **Financial Independence:** The judiciary is financially independent from the executive and legislature.
 - The Constitution ensures that the salaries and allowances of judges are not subject to approval or control by the legislature.
- **Immunity from Personal Criticisms:** Judges are granted immunity from personal criticisms.
 - The judiciary has the power to penalize individuals who are found guilty of contempt of court.

- This protection allows judges to make impartial decisions without the fear of facing unfair criticism or personal attacks.
- **Restriction on Parliamentary Discussion:** The conduct of judges cannot be discussed in Parliament, except during the proceedings related to the removal of a judge. This restriction ensures that the judiciary can carry out its duties without being subject to unwarranted criticism from the legislature.

APPOINTMENT OF JUDGES

The appointment of judges in India has been a subject of political controversy and influence. The selection of judges has a significant impact on the interpretation of the Constitution because the political philosophy and views of judges differ.

- **Appointment of Chief Justice of India (CJI):** Traditionally, the senior-most judge of the Supreme Court was appointed as the Chief Justice of India (CJI).
 - However, this convention was broken twice in the past- in **1973 A. N. Ray** was appointed as CJI superseding three senior Judges and in **1975 Justice M.H. Beg** was appointed superseding **Justice H.R. Khanna**.
- **Appointment of other judges in the Supreme Court and High Courts:** Their appointment is made by the President after consulting the CJI.
 - It means that the final decisions in matters of appointment **rested with the Council of Ministers**.
- **Status of the consultation with the Chief Justice:** Initially, the role of the Chief Justice was considered purely consultative.
 - Subsequently, the Supreme Court ruled that the President must follow the opinion of the Chief Justice.
 - However, in the **1982-1998 period**, the Supreme Court established a novel procedure.
 - It suggested that the Chief Justice should recommend names for appointment in consultation with the four senior-most judges of the Court.
 - This introduced the **principle of collegiality** in making recommendations for judicial appointments.
 - Currently, the decisions of the group of senior judges of the Supreme Court carry greater weight in matters of judicial appointments. Thus, the Supreme Court and the Council of Ministers both play important roles in the appointment process.

REMOVAL OF JUDGES

- **Hard Process of Removal:** Judges of the Supreme Court and High Courts can only be **removed on grounds of proven misbehaviour or incapacity**.
- This process is extremely difficult and requires a motion with charges against the judge to be approved by a **special majority in both Houses of Parliament**.
- **Executive and Legislative Roles:** While the executive plays a crucial role in the appointment of judges, the legislature holds the powers of removal.
 - This separation of powers ensures a **balance of power and the independence of the judiciary**.
- **Limited Instances:** Only one case of removal of a judge of the Supreme Court has come up for consideration before Parliament. In that case, the **motion received a two-thirds majority** but did not have the support of the majority of the total strength of the House, resulting in the judge not being removed.

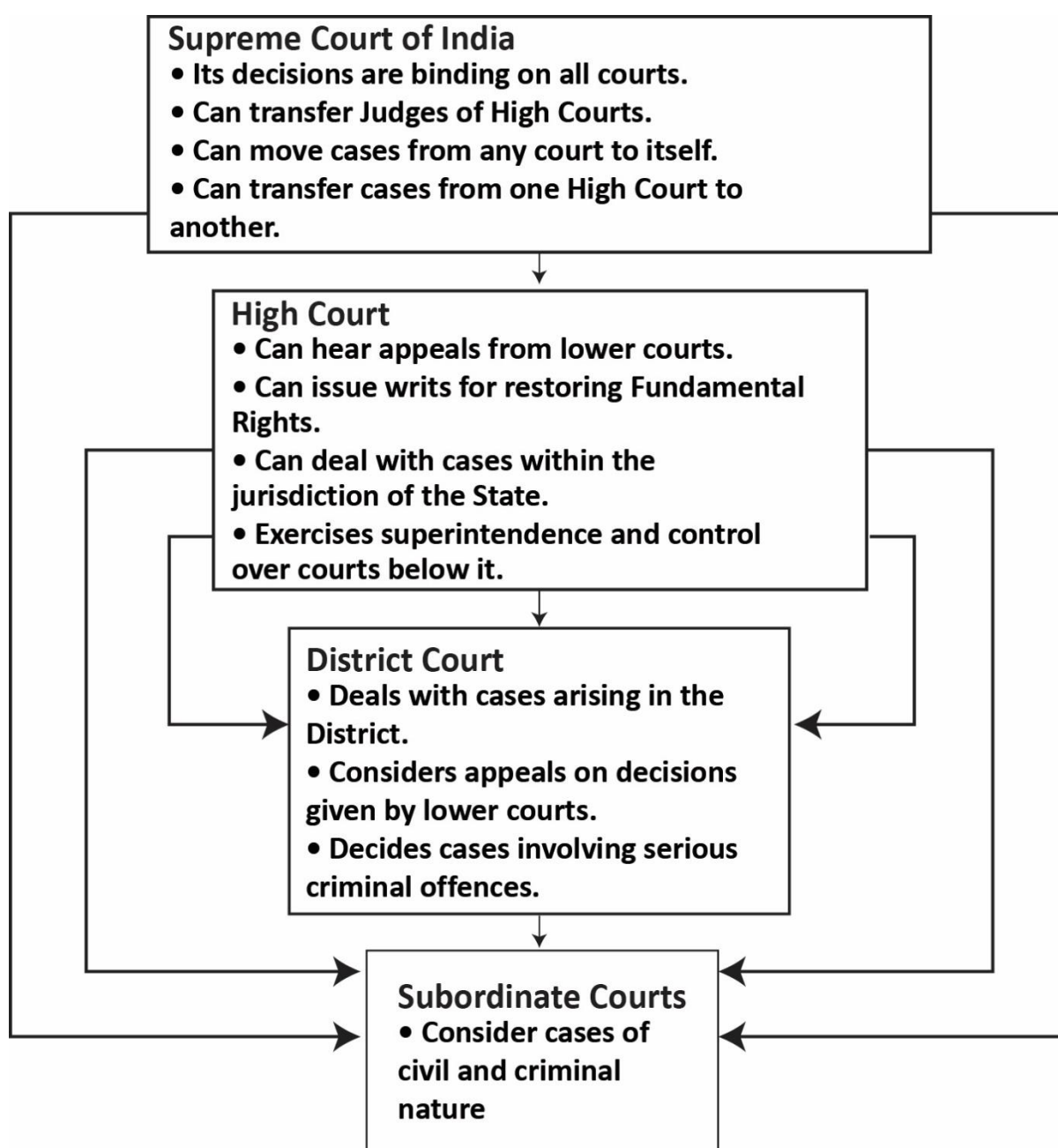
Unsuccessful Attempt to Remove a Judge

- In **1991**, a motion to remove **Supreme Court Justice V. Ramaswami** was initiated based on **accusations of misappropriation of funds** during his tenure as Chief Justice of the Punjab and Haryana High Court.

- In 1992, an inquiry commission composed of Supreme Court judges found him guilty of misuse of office and moral turpitude.
- However, despite the strong indictment, **Ramaswami survived the removal motion** as the required **two-thirds majority** was obtained among the members present and voting, but the motion did not receive the support of one-half of the total strength of the House due to the abstention of the Congress party.

STRUCTURE OF THE JUDICIARY

- The Indian Constitution establishes a single integrated judicial system, which means that there are no separate State courts in India.
- The judiciary in India follows a pyramidal structure, with the Supreme Court at the highest level, followed by the High Courts, and then the district and subordinate courts at the lowest level.
- The lower courts operate under the supervision and guidance of the higher courts.

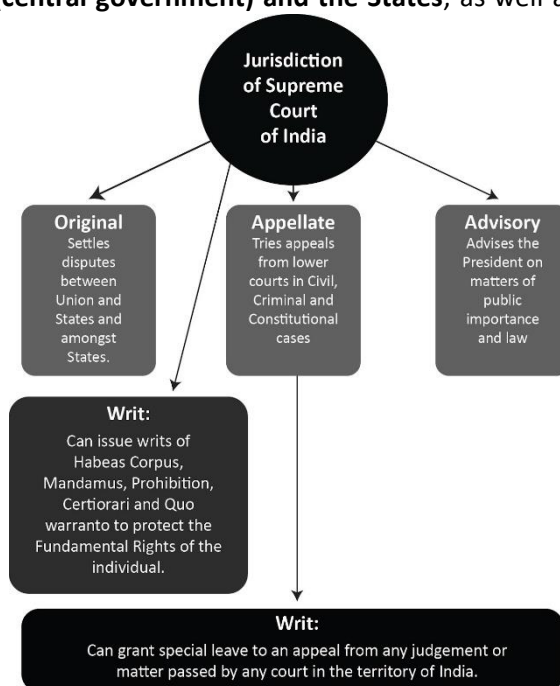


JURISDICTION OF SUPREME COURT

- The Supreme Court of India holds significant power and authority, but it operates within the boundaries set by the Constitution.
- The Constitution defines the functions and responsibilities of the Supreme Court.
- It has a specific jurisdiction or scope of powers.

ORIGINAL JURISDICTION

- **Original jurisdiction** refers to the authority of the Supreme Court to **directly hear and decide certain cases without them being first presented to lower courts.**
- In India, the Supreme Court has original jurisdiction over cases involving federal relations, meaning disputes between:
 - **The Union (central government) and the States, as well as disputes among the States**



themselves.

- This grants the Supreme Court the **role of an umpire** in resolving such federal matters.
 - **Only the Supreme Court** has the power to handle these cases, and neither the High Courts nor the lower courts have jurisdiction over them.
- In addition to settling disputes, the Supreme Court also interprets the powers of the Union and State governments as defined in the Constitution.

WRIT JURISDICTION

- In India, individuals whose fundamental rights have been violated have the **right to directly approach the Supreme Court for a remedy.**
- The **Supreme Court has the power to issue special orders known as writs.**
 - Similarly, the **High Courts also have the authority** to issue writs.
- However, **individuals** whose rights have been violated can choose to **either approach the High Court or directly approach the Supreme Court.**
- These writs allow the Court to give orders to the executive branch, directing them to take or refrain from taking specific actions.

APPELLATE JURISDICTION

- **Appellate jurisdiction** refers to the power of the Supreme Court to review and reconsider a case, including the legal issues involved.

- If the Supreme Court determines that the lower courts have interpreted the law or the Constitution differently than intended, it has the **power to change the ruling** and provide a new interpretation of the provisions in question.
- **Supreme Court is the highest court of appeal:** Individuals have the right to appeal to the Supreme Court against the decisions made by the High Court.
 - However, for an appeal to be considered by the Supreme Court, the High Court must certify that the case involves a significant matter of law or constitutional interpretation.
- **In criminal cases** where the lower court has sentenced a person to death, an appeal can be made to either the High Court or the Supreme Court.
 - The **Supreme Court has the authority** to decide whether to admit appeals, even if the High Court does not allow them.
- Similarly, the **High Courts also have appellate jurisdiction** over the decisions made by courts below them, allowing them to review and reconsider such cases.

ADVISORY JURISDICTION

- Under advisory jurisdiction, the **President of India has the authority to seek the advice** of the Supreme Court on matters that are of public importance or involve the interpretation of the Constitution.
 - However, the **Supreme Court is not bound to provide advice**, and the **President is not bound to accept** the advice given by the Court.
- The **utility of the advisory powers** of the Supreme Court lies in two aspects:
 - **Firstly, it allows the government to obtain legal opinion** on significant matters before taking action, thereby potentially preventing unnecessary litigation in the future.
 - **Secondly**, based on the advice received from the Supreme Court, the **government can make appropriate changes** to its course of action or legislative measures, ensuring their alignment with legal principles and avoiding potential conflicts or legal challenges.

- | |
|---|
| <ul style="list-style-type: none">• Article 137: The Supreme Court shall have power to review any judgment pronounced or order made by it.• Article 144: All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court. |
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UNIFIED NATURE OF OUR JUDICIARY AND THE POWERS OF THE SUPREME COURT

- The decisions of the Supreme Court are **binding on all other courts** within the Indian territory.
- Its **orders are binding throughout all parts of the nation**.
- The Supreme Court is **not bound by its own decision** and **can review it at any time**.
- If there is a case of contempt of the Supreme Court, that case is decided by the Supreme Court itself.

JUDICIAL ACTIVISM

Judicial activism and Public Interest Litigation (PIL) are believed to have brought significant changes, making the judiciary more responsive and people-friendly. **Public Interest Litigation (PIL) or Social Action Litigation (SAL)**, is the key mechanism enabling judicial activism in India.

PUBLIC INTEREST LITIGATION OR SOCIAL ACTION LITIGATION

- **PIL or SAL (Public Interest Litigation or Social Action Litigation)** is a legal mechanism that allows individuals or organizations to file cases on behalf of others or in the interest of the public, even if they are not personally aggrieved.
- **Emergence:** It emerged **around 1979** when the **Indian courts began** hearing cases involving public interest issues, **going beyond the traditional requirement** of personal aggrievement.

- The trend was set by a case in 1979 where a matter of public interest was considered by the court, leading to the term "public interest litigation."
- **Broadening the Idea of Rights:** PIL expanded the concept of rights to encompass societal concerns.
 - Clean air, unpolluted water, decent living conditions recognized as rights for society as a whole.
- **PIL as a Catalyst for Judicial Activism:** PIL has become the key instrument of judicial activism, enabling the judiciary to address broader societal concerns and expand the idea of rights for the entire society.
- **Inclusion of Marginalized Sections:** It allowed marginalized sections to access justice by allowing public-spirited citizens, social organizations, and lawyers to file petitions on their behalf.

IMPACT OF JUDICIAL ACTIVISM ON THE POLITICAL SYSTEM

- Judicial activism has expanded access to the courts, not just for individuals but also for groups representing public interests.
- Through judicial activism, the courts have played a crucial role in holding the executive branch of government accountable.
- The judiciary has taken steps to make the electoral system more transparent and fairer. By demanding candidates to file affidavits disclosing their assets, income, and educational qualifications, the court has empowered voters with accurate information to make informed choices during elections.

NEGATIVE SIDE TO THE LARGE NUMBER OF PILS AND THE IDEA OF A PROACTIVE JUDICIARY

- **Overburdening the courts:** The large number of PILs and the proactive approach of the judiciary have led to an overload of cases, putting a strain on the judicial system.
- **Blurring the separation of powers:** Judicial activism has sometimes resulted in the judiciary intruding into the domain of the executive and legislature.
 - By taking up matters that are traditionally within the purview of the executive or legislative branches, it blurs the line of distinction between the three organs of government, potentially undermining the principle of separation of powers.
- **Straining democratic principles:** The delicate balance among the three organs of government is a fundamental aspect of democratic governance. Judicial activism may create tensions and challenges in maintaining this balance.

JUDICIARY AND RIGHTS

The judiciary in India is responsible for protecting the rights of individuals. The following two provisions establish the Supreme Court as the guardian of fundamental rights and the interpreter of the Constitution:

- **By issuing writs:** The Supreme Court, under Article 32 of the Constitution, and High Courts, under Article 226, can issue writs such as Habeas Corpus and Mandamus **to restore fundamental rights** that have been violated.
- **By declaring laws as unconstitutional:** The Supreme Court can also declare a law as unconstitutional and, therefore, non-operational under Article 13 of the Constitution, if it is found to violate the fundamental rights of individuals.
 - This gives the judiciary the **power of judicial review** to ensure the constitutionality of laws and protect citizens' rights.

JUDICIAL REVIEW

- The power of judicial review is one of the most significant powers of the Supreme Court.
- **Judicial review allows** the Supreme Court (and High Courts) to **examine the constitutionality of any law**.

- If the Court finds a law inconsistent with the provisions of the Constitution, **it can declare the law unconstitutional and inapplicable.**
- Although **the term "judicial review" is not explicitly mentioned in the Constitution**, the existence of a written constitution and the ability of the Supreme Court to strike down laws that violate fundamental rights imply this power.
- **Supreme Court's review power applies not only to laws** that violate fundamental rights but also to laws that infringe upon the federal distribution of powers between the central government and State governments.
 - **In cases of federal relations**, the Court can review laws that encroach upon State subjects. The review power also extends to laws passed by State legislatures.
- The **combination of writ powers and review power** makes the judiciary very powerful.
 - It allows the judiciary to interpret the Constitution and the laws passed by the legislature, enabling effective protection of the Constitution and citizens' rights.
- The **practice of Public Interest Litigation (PIL)** has further expanded the judiciary's powers in protecting citizens' rights, especially for the poor and disadvantaged sections of society.
 - PIL has allowed the courts to address various violations of rights, such as **exploitation, inhuman working conditions, and sexual exploitation of children**, making rights meaningful for those whose rights were previously difficult to protect.

JUDICIARY AND PARLIAMENT

- The Supreme Court has taken an **active stand on protecting rights and preventing subversion of the Constitution** through political practices.
- It **expanded the scope of judicial review** to include President and Governor.
- The **Court actively involved** itself in administering justice by giving **directions to executive agencies**, such as ordering CBI to initiate investigations against **politicians and bureaucrats in the hawala case, the Narasimha Rao case, illegal allotment of petrol pumps case etc.**
- The Indian Constitution follows a **principle of limited separation of powers and checks and balances** among the three organs of government:
 - **Parliament:** It is supreme in making laws and amending the Constitution.
 - **Executive:** It is supreme in implementing them.
 - **Judiciary:** It is supreme in settling disputes and deciding cases.
- However, conflicts between Parliament and the judiciary, as well as the executive and judiciary, have been recurrent themes in Indian politics despite this clear division of power.

CONFLICTS BETWEEN PARLIAMENT AND JUDICIARY

- After the implementation of the Constitution, a **controversy arose over the Parliament's power to restrict the right to property** for the purpose of implementing land reforms.
- The Court ruled that the **Parliament cannot restrict fundamental rights** in this manner.
- The **Parliament attempted to amend the Constitution to abridge fundamental rights**, but the Court held that even through an amendment, fundamental rights cannot be abridged.

ISSUES AT THE CENTRE OF THE CONTROVERSY

- Scope of Right to private property.
- Scope of the Parliament's power to curtail, abridge or abrogate fundamental rights.
- Scope of the Parliament's power to amend the constitution.
- The power of Parliament to make laws that abridge fundamental rights while enforcing directive principles.

Between 1967 and 1973

- the controversy between the legislature and the judiciary escalated between 1967 and 1973.
- It involved various issues, including
 - land reform laws,

- laws related to preventive detention,
- job reservations,
- regulations for acquiring private property for public purposes, and
- laws governing compensation for such acquisition of private property.
- These instances reflected the conflict between the two organs of government.

Kesavananda Bharati Case

- In 1973, the landmark Kesavananda Bharati case had a significant impact on the relationship between the Parliament and the Judiciary.
- The Supreme Court ruled that there exists a **"basic structure"** of the Constitution, which cannot be violated, even through amendments by the Parliament.
- The case also clarified that the **right to property is not part of the basic structure** and can be limited.
 - Furthermore, the Court retained the authority to determine what constitutes the basic structure of the Constitution.
- This ruling altered the nature of conflicts between the legislature and the judiciary.
- The **right to property was removed from the list** of fundamental rights in 1979, further influencing their relationship.

Some issues still remaining a bone of contention between the two

- These relate to the scope of judicial **intervention "and regulation of"** the legislative process.
- In a parliamentary system, the legislature has the authority to govern itself and regulate its members' conduct.
- The legislature has the authority to penalise those who violate the privileges of the legislature.
- **Issues:**
 - Regarding the **court protection available to individuals who violate parliamentary privileges.**
 - Regarding the **court protection available to members of the legislature** against whom the legislature has taken disciplinary action.
- The Constitution prohibits discussing the conduct of judges in the House of Representatives.

Legal Services Day-2018

09-11-2018

LEGAL SERVICES AUTHORITIES- COMMITTED TO PROTECTING YOUR LEGAL RIGHTS

Legal Services Authorities aim to:	Following persons are eligible for Free Legal Services:	Free legal services are provided in matters before Civil, Criminal and Revenue Courts, Tribunals or any other authority exercising judicial or quasi judicial functions
1) Provide Free Legal Aid and Advice 2) Spread Legal Awareness 3) Organise Lok Adalats 4) Promote Settlement of Disputes through ADR Mechanisms 5) Provide compensation to victims of crime	1) Women and Children 2) Members of Scheduled Castes or Scheduled Tribes (3) Industrial Workmen 4) Persons with disability (5) Victims of natural disasters, ethnic/caste violence industrial disaster 6) Persons in custody 7) Persons with an annual income of less than Rs. 1.00.000/- or as notified by the Central/State Governments. 8) Victims of Human Trafficking or Begar	Following are the Legal Services Institutions for providing Free Legal Services: 1) At National Level : National Legal Services Authority 2) At State Level : State Legal Services Authority 3) At District Level : District Legal Service Authority 4) At Taluka Level/ Sub-Division : Taluka/Sub- Divisional Legal Services Committee 5) At High Court Level : High Court Legal Services Committee 6) At Supreme Court Level : Supreme Court Legal Services Committee

Points To Remember

- **Some early PILs**
 - **In 1979**, a newspaper report about 'under trials' in Bihar prompted an advocate to file a petition in the Supreme Court, leading to the famous **Hussainara Khatoon vs. Bihar case**.
 - **In 1980**, a prison inmate's scribbled letter describing physical torture of prisoners reached Justice Krishna Iyer, who converted it into a petition. This case, known as **Sunil Batra vs. Delhi Administration (1980)**, also became a significant example of public interest litigation.
- **Public interest litigation** is gaining acceptance in many countries, particularly in South Asia and Africa.
 - **South Africa's constitution has explicitly incorporated public interest litigation** in its bill of rights, granting citizens the fundamental right to bring cases of rights violation before the Constitutional Court on behalf of others.
- **Legal service day** is celebrated on **9th November**.

QUESTIONS

1. Which of the following statements is correct about the measures taken to provide protection and independence to the judiciary in India?

- a. The executive and legislature have the power to restrain the functioning of the judiciary to ensure justice is served.
- b. Judges are appointed based on their political opinions and loyalty to a particular party.
- c. The tenure of judges is fixed, providing them with security of office until they reach the age of retirement.
- d. The judiciary is financially dependent on the executive and legislature for the approval of salaries and allowances.

Answer: C

Explanation:

- **Option (a) is incorrect: The independence of the judiciary implies that the executive and legislature should not restrain the functioning of the judiciary in a way that prevents it from delivering justice.** Therefore, the executive and legislature should not interfere with the judiciary's work.
- **Option (b) is incorrect: The appointment of judges in India is not based on their political opinions or loyalty to a particular party.** The process of appointment is independent of party politics to ensure that appointments to the judiciary are made based on merit and suitability.
- **Option (c) is correct: Judges in India have a fixed tenure and hold office until they reach the age of retirement.** This provides them with security of office, allowing them to perform their functions without fear or favour. The intention behind this measure is to protect the independence of the judiciary.
- **Option (d) is incorrect: The judiciary in India is not financially dependent on the executive or legislature.** The salaries and allowances of judges are determined by the Constitution and are not subject to the approval of the legislature. This financial independence helps ensure the judiciary's autonomy.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

2. Consider the following statements regarding the need for an independent judiciary:
1. The judiciary plays a vital role in settling disputes between individuals, groups, and the government, ensuring the rule of law is upheld.
 2. The principle of the rule of law ensures that all individuals, regardless of their social status, are subject to the same laws.
 3. The primary responsibility of the judiciary is to protect the rights of individuals, resolve disputes according to the law, and prevent the dominance of individual or group dictatorship.
 4. An independent judiciary is necessary to maintain the supremacy of the law and safeguard democracy by being free from political influences.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The judiciary indeed plays a crucial role in settling disputes between individuals, groups, and the government.** It ensures that conflicts are resolved in accordance with the principles of the rule of law.

- **Statement 2 is correct: The principle of the rule of law implies that all individuals, regardless of their social status, are subject to the same laws.** This ensures equality and fairness in the legal system.
- **Statement 3 is correct: The primary responsibility of the judiciary is to protect the rights of individuals, resolve disputes based on the law, and prevent any form of individual or group dictatorship.** It acts as a check against the concentration of power and ensures that the democratic principles are upheld.
- **Statement 4 is correct: An independent judiciary is necessary to maintain the supremacy of the law and safeguard democracy.** By being free from political influences, the judiciary can make impartial judgments and ensure that the law is upheld without any bias or external pressure.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

3. With reference to the appointment of judges in India, consider the following statements:

1. The appointment of judges is solely determined by the Chief Justice of India (CJI) in consultation with the President.
2. The senior-most judge of the Supreme Court is conventionally appointed as the Chief Justice of India.
3. The Council of Ministers has no influence in the process of judicial appointment.
4. The Supreme Court has the final decision-making authority in matters of judicial appointment.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is incorrect: The appointment of judges in India is not solely determined by the Chief Justice of India in consultation with the President.** While the Chief Justice of India does play a significant role in the appointment process, it is not the sole decision-maker. The appointment process involves consultation between the executive and the judiciary.
- **Statement 2 is correct: The convention has been to appoint the senior-most judge of the Supreme Court as the Chief Justice of India (CJI).** Historically, the senior-most judge of the Supreme Court has been appointed as the CJI. However, it's important to note that this convention has been broken twice in the past
- **Statement 3 is incorrect: Council of Ministers, Governors and Chief Ministers and Chief Justice of India — all influence the process of judicial appointment.** The other Judges of the Supreme Court and the High Court are appointed by the President after 'consulting' the CJI. This, in effect, meant that the final decisions in matters of appointment rested with the Council of Ministers.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

4. In the context of the removal of judges in India, consider the following statements:

1. A judge of the Supreme Court or High Court can be removed on the ground of proven misbehaviour or incapacity.

2. The removal of a judge requires a motion approved by a simple majority in both Houses of the Parliament.
3. The executive branch has the power of removal while the legislature plays a crucial role in making appointments.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct: A judge of the Supreme Court or High Court can only be removed on the ground of proven misbehavior or incapacity.** This means that there must be concrete evidence of misconduct or inability to perform judicial duties for a judge to be removed from their position.
- **Statement 2 is incorrect: A judge can only be removed if a motion containing the charges against the judge is approved by a special majority in both Houses of the Parliament.** A special majority typically refers to a higher threshold than a simple majority. The exact requirement for a special majority may vary depending on the specific constitutional provisions of the country in question.
- **Statement 3 is incorrect: In the appointment of judges, the executive branch plays a crucial role. However, it also states that the legislature has the powers of removal.** This indicates that the executive branch is involved in the appointment process, while the legislature is responsible for the removal of judges. This arrangement helps maintain a balance of power and independence of the judiciary.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

5. Consider the following statements about the structure of the judiciary in India:
1. The Constitution of India establishes a integrated judicial system.
 2. The Supreme Court of India has the authority to transfer Judges of High Courts.
 3. The High Courts in India have no power to issue writs for the restoration of Fundamental Rights.
 4. District Courts in India have jurisdiction over cases involving serious criminal offenses.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: The Constitution of India provides for a single integrated judicial system.** Unlike some other federal countries, India does not have separate State courts.
- **Statement 2 is correct: The Supreme Court of India has the authority to transfer Judges of High Courts.** This means that the Supreme Court can transfer judges from one High Court to another as it deems necessary.
- **Statement 3 is incorrect: The High Courts in India have the power to issue writs for the restoration of Fundamental Rights.** Writs are legal orders issued by courts to protect the fundamental rights of individuals.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

6. Which of the following statements about the jurisdiction of the Supreme Court of India are correct?

1. The Supreme Court of India settles disputes between the Union and States and amongst States.
2. The Supreme Court of India tries appeals from lower courts in Civil, Criminal, and Constitutional cases.
3. The Supreme Court of India can issue writs to protect the Fundamental Rights of the individual.
4. The Supreme Court of India has the special power to grant special leave to an appeal from any judgment or matter passed by any court in the territory of India.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The Supreme Court of India has original jurisdiction in settling disputes between the Union (central government) and the States of India, as well as disputes among different States.**
- **Statement 2 is correct: The Supreme Court of India serves as the highest appellate court in the country.** It has the authority to hear and decide appeals from lower courts in civil, criminal, and constitutional cases.
- **Statement 3 is correct: The Supreme Court of India has the power to issue writs, such as Habeas Corpus (to produce a person detained unlawfully), Mandamus (to perform a public duty), Prohibition (to prevent an inferior court from exceeding its jurisdiction), Certiorari (to quash the decision of an inferior court), and Quo warrant (to inquire into the legality of a claim to a public office).** These writs are used to protect the Fundamental Rights of individuals.
- **Statement 4 is correct: The Supreme Court of India has the special power to grant special leave to appeal from any judgment or matter passed by any court in the territory of India.** This power allows the Supreme Court to exercise its discretion in granting permission to hear an appeal, even if the case does not fall within its regular appellate jurisdiction.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

7. Consider the following statements regarding the jurisdiction of the Supreme Court of India:

1. The Supreme Court has original jurisdiction over cases involving federal relations, resolving disputes between the Union and the States, and among the States themselves.
2. The Supreme Court can issue writs to provide remedies for violations of fundamental rights, and individuals have the option to approach either the Supreme Court or the High Court directly.
3. The Supreme Court is the highest court of appeal, and individuals can appeal against the decisions of the High Court if the case involves a serious matter of interpretation of law or the Constitution.
4. The President of India can refer matters of public importance or those involving the interpretation of the Constitution to the Supreme Court for advice, although the Court is not bound to provide advice and the President is not bound to accept it.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The Supreme Court of India has original jurisdiction over cases involving federal relations, resolving disputes between the Union (central government) and the States, as well as disputes among the States themselves.** It is the sole authority to deal with such cases, and neither the High Courts nor the lower courts can handle them.
- **Statement 2 is correct: Individuals whose fundamental rights have been violated have the option to directly approach the Supreme Court for remedies.** The Supreme Court has the power to issue special orders in the form of writs. While the High Courts also have the power to issue writs, individuals have the choice of approaching either the High Court or the Supreme Court directly.
- **Statement 3 is correct: The Supreme Court is the highest court of appeal in India. Individuals can appeal to the Supreme Court against the decisions of the High Court.** However, for the case to be accepted for appeal, the High Court must certify that it involves a serious matter of interpretation of law or the Constitution. Additionally, in criminal cases where the lower court has sentenced a person to death, an appeal can be made to either the High Court or the Supreme Court. The Supreme Court has the power to decide whether to admit appeals, even if the High Court does not allow them.
- **Statement 4 is correct: The President of India can refer matters of public importance or matters involving the interpretation of the Constitution to the Supreme Court for advice.** However, the Supreme Court is not bound to provide advice on such matters, and the President is not obligated to accept the advice given by the Court. The advisory jurisdiction allows the government to seek legal opinion before taking action, which can help in preventing unnecessary litigations. Additionally, the government can make suitable changes in its actions or legislations based on the advice of the Supreme Court.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

8. Consider the following statements regarding judicial activism and Public Interest Litigation (PIL):

1. Judicial activism refers to the role of the judiciary in considering cases based only on newspaper reports and postal complaints.
2. PIL emerged in India in 1979 when the Supreme Court decided to hear cases filed by aggrieved individuals.
3. PIL allows individuals to approach the courts only if they have been personally aggrieved.
4. Judicial activism has had a negative impact on the political system by limiting executive accountability.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: A

Explanation:

- **Statement 1 is incorrect:** Judicial activism refers to the role of the judiciary in actively interpreting the law and taking an active role in shaping public policy, rather than solely responding to cases brought before it. It is not specifically about considering cases based on newspaper reports and postal complaints.
- **Statement 2 is correct:** PIL emerged in India around 1979 when the Supreme Court decided to hear cases filed not only by aggrieved individuals but also by others on their behalf. This expanded the scope of who could approach the courts and opened the gates for public interest litigation.
- **Statement 3 is incorrect:** PIL allows individuals, as well as public-spirited citizens, social organizations, and lawyers, to file petitions on behalf of the needy and the deprived. It goes beyond personal grievances and allows for seeking justice wherever rights are violated in the interest of the public.
- **Statement 4 incorrect:** Judicial activism has had a positive impact on the political system by promoting executive accountability. It has forced the executive branch to be more accountable for its actions and has contributed to making the electoral system more transparent and fair.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

9. With reference to the judiciary and rights in India, consider the following statements:

1. The Supreme Court can restore fundamental rights by issuing writs of Habeas Corpus and mandamus, while the High Courts also possess the power to issue such writs.
2. The Supreme Court has the power of judicial review to examine the constitutionality of any law and declare it unconstitutional if it violates the provisions of the Constitution.
3. The term Judicial review is explicitly mentioned in the Indian Constitution.
4. The review power of the Supreme Court extends to the laws passed by State legislatures, in addition to laws passed by the central government.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct:** The Supreme Court can restore fundamental rights by issuing writs of Habeas Corpus and mandamus, and the High Courts also possess the power to issue such writs. These writs are legal instruments that are used to protect the rights of individuals and ensure that their liberties are not unlawfully infringed upon.
- **Statement 2 is correct:** The Supreme Court has the power of judicial review, which allows it to examine the constitutionality of any law. If the Court finds that a law is inconsistent with the provisions of the Constitution, it can declare the law unconstitutional and inapplicable. This power of judicial review helps safeguard the rights of individuals and ensures that laws adhere to the constitutional framework.
- **Statement 3 is incorrect:** Although the term 'judicial review' is not explicitly mentioned in the Indian Constitution, the Supreme Court derives the power of judicial review from various provisions of the Constitution. The Court has interpreted and established this power through its judgments over time.
- **Statement 4 is correct:** The review power of the Supreme Court extends to the laws passed by State legislatures in addition to laws passed by the central government. If a law passed

by a State legislature is inconsistent with the provisions of the Constitution, the Supreme Court can declare it unconstitutional and invalid.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

10. Consider the following statements regarding the judiciary and Parliament in India:

1. The Supreme Court has actively involved itself in the administration of justice by giving directions to executive agencies, such as the CBI, in cases involving politicians and bureaucrats.
2. The Parliament is supreme in settling disputes and deciding whether the laws that have been made are in accordance with the provisions of the Constitution.
3. The Kesavananda Bharati case in 1973 established that the Parliament can violate the basic structure of the Constitution through amendments.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is correct:** The Supreme Court has actively involved itself in the administration of justice by giving directions to executive agencies like the CBI (Central Bureau of Investigation) in cases involving politicians and bureaucrats. It cites examples such as the hawala case, the Narasimha Rao case, and the illegal allotment of petrol pumps case.
- **Statement 2 is incorrect:** The judiciary is supreme in settling disputes and deciding whether the laws made by the Parliament are in accordance with the provisions of the Constitution. The Parliament is responsible for making laws and amending the Constitution, while the executive is responsible for implementing them.
- **Statement 3 is incorrect:** The Kesavananda Bharati case in 1973 established the principle that there is a basic structure of the Constitution that cannot be violated, even by the Parliament through amendments. The Court ruled that the basic structure is protected, and it reserved the right to decide what constitutes the basic structure. The case did not establish that the Parliament can violate the basic structure of the Constitution through amendments.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 6/ Judiciary

Chapter 7: Federalism

INTRODUCTION

The political maps of India in 1947 and 2017 show significant changes in state boundaries and names over the years. After independence, provinces and princely states merged to form the Indian Union. Since then, state boundaries have been reorganized multiple times based on the wishes of the people. Names of states have also changed, such as Mysore becoming Karnataka and Madras becoming Tamil Nadu. These changes reflect the functioning of federalism in India. Federalism is an important aspect of the Indian Constitution, with provisions outlining the relationship between the central government and states.

FEDERALISM

- **Federalism refers to a system of governance** in which power is divided and shared between a central government and various regional or state governments.
- It is a **way of organizing a country** with diverse populations, cultures, and languages, allowing different regions to have some degree of autonomy and decision-making authority within their specific areas of jurisdiction.
- The federal structure aims to strike a balance between unity and diversity by accommodating regional differences while fostering a sense of national unity.
- **Example:** After 1989, the **breakup of the USSR** and other countries like **Czechoslovakia, Yugoslavia, and Pakistan** was due to excessive centralization of power and domination of one region over others. **However, with its diverse languages, cultures, and religions, India has remained united since independence.**
 - This unity can be attributed to various factors, including the **federal structure of governance adopted through the Indian Constitution.**
 - India's federal system allows for **decentralized power-sharing between the central government and states**, accommodating the country's vast diversity.

Two Case Studies

Federalism in West Indies

- West Indies was a **federation formed in 1958** with a weak central government, but due to political competition and economic independence of each unit, the federation was dissolved in 1962.
- **Later, in 1973**, the independent islands established joint authorities through the Caribbean Community, which includes a common legislature, supreme court, currency, and a degree of common market.
- While they couldn't stay together as one country, they also cannot fully separate from each other.

Federalism in Nigeria

- Federalism in Nigeria faced challenges due to distrust among the regions and ethnic groups.
- After its formation, conflicts arose as different ethnic groups tried to expand their influence, leading to military rule.
- Even after **the restoration of democracy in 1999**, religious and ethnic differences, along with conflicts over control of oil resources, continue to pose problems for Nigeria's federal arrangement.
- The country's federalism is affected by overlapping issues related to religion, ethnicity, and economic disparities among its units.

KEY IDEAS AND CONCEPTS ASSOCIATED WITH FEDERALISM

- **Accommodating Two Sets of Politics:** Federalism is an institutional mechanism that accommodates two sets of politics - **one at the regional level** and the **other at the national level**. Each level of government is autonomous in its own sphere.
- **Dual Identities and Loyalties:** People have dual identities and loyalties, belonging to both their **region (e.g., Gujaratis or Jharkhandis) and the nation (Indians)**.
- **Separate System of Government:** Each level of the polity has distinct powers, responsibilities, and a separate system of government.
- **Written Constitution:** The details of this dual system of government are spelled out in a written constitution, which is considered supreme and the source of power for both levels of government.
- **Division of Responsibilities:** Certain subjects concerning the nation as a whole, such as **defense or currency**, are the responsibility of the central government, while regional or local matters fall under the jurisdiction of the state or regional government.
- **Independent Judiciary:** To prevent conflicts between the central and state governments, there is an independent judiciary that settles disputes and has the power to resolve legal matters about the division of power.

The actual working of a federation is influenced by real politics, culture, and ideology, which play a crucial role in determining its functioning. A culture of trust, cooperation, mutual respect, and restraint is vital for the smooth functioning of federations. If any single unit, state, linguistic group, or ideology dominates the entire federation, it can generate deep resentment among other units, potentially leading to demands for secession or even civil wars.

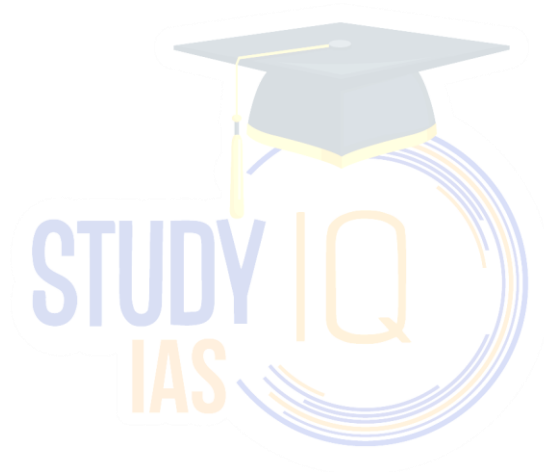
FEDERALISM IN THE INDIAN CONSTITUTION

- The Indian national movement leaders recognized the need to **divide powers between the provinces** and the **central government to govern a diverse and large country** like India.
 - They acknowledged the regional and linguistic diversity and sought to ensure democratic governance by allowing people of different regions and languages to share power and govern themselves.
- **During the negotiations before Partition**, a compromise formula was discussed to grant substantial powers to regional governments, considering the Muslim League's demand for greater representation to Muslims.
 - **After Independence and Partition**, the Constituent Assembly aimed to create a government based on unity and cooperation between the center and the states while granting separate powers to the states.
- The most significant aspect of the federal system in the Indian Constitution is the principle of cooperation between the states and the center. While recognizing diversity, the Constitution emphasizes unity as a key factor in governing the nation.
- The Constitution of India does not mention the word federation. It describes India as:
 - **Article 1:** (1) India, that is Bharat, shall be a Union of States.
 - **Article 1:** (2) The States and the territories thereof shall be as specified in the First Schedule.

DIVISION OF POWERS

- The Indian Constitution establishes two sets of government:
 - **Union government** (central government) for the entire nation
 - **State governments** for each unit or State.
- Both levels of government have constitutional status and defined areas of activity.
- Any disputes about the distribution of powers between the Union and the States can be resolved by the Judiciary, based on the constitutional provisions.
- The Constitution clearly specifies subjects that fall under the exclusive jurisdiction of the Union and those under the States.

- **Economic and financial powers** are centralized in the hands of the **central government** by the Constitution, while the States have significant responsibilities but limited revenue sources.
- This division of powers creates a federal structure with a clear allocation of authority between the central and regional governments.



Constitution of India

Union List

Includes subjects like,

- Defence
 - Atomic Energy
 - Foreign Affairs
 - War and Peace
 - Banking
 - Railways
 - Post and Telegraph
 - Airways
 - Ports
 - Foreign Trade
 - Currency & Coinage
- Union Legislature alone can make laws on these matters.

State List

Includes subjects like

- Agriculture
 - Police
 - Prison
 - Local Government
 - Public Health
 - Land
 - Liquor
 - Trade and Commerce
 - Livestock and Animal Husbandry
 - State Public Services
- Normally only the State Legislature can make laws on these matters

Concurrent List

Includes subjects like,

- Education
 - Transfer of Property other than Agricultural land
 - Forests
 - Trade Unions
 - Adulteration
 - Adoption and Succession
- Both Union and State Legislature alone can make laws on these matters.

Residuary Powers

Include all other matters not mentioned in any of the Lists.

- Cyber Laws

Union Legislature alone has the power to legislate on such matters

FEDERALISM WITH A STRONG CENTRAL GOVERNMENT

- The Indian Constitution was designed to accommodate the country's immense diversities through federalism while also establishing a strong central government.
- The framers recognized the need to prevent disintegration and promote social and political change.
- With over **500 princely states to integrate**, a strong central government was seen as essential.
- It was believed that the center could effectively address **socio-economic challenges like poverty, illiteracy, and wealth inequalities** through planning and cooperation with the states.
- The Constitution's emphasis on unity and development led to the creation of a strong central government to ensure the nation's progress and welfare.

IMPORTANT PROVISIONS FOR CREATING A STRONG CENTRAL GOVERNMENT

- **Control over State Formation and Territorial Integrity:** Parliament has the authority to form new states, alter state boundaries, and change state names, thereby controlling the existence and territorial integrity of states.
 - Some safeguards require the views of concerned state legislatures.
- **Emergency Provisions:** Emergency provisions grant the central government significant powers during emergencies, including the ability to make laws on subjects under state jurisdiction.
 - It turns federal polity into a highly centralised system.
- **Financial Dominance:** The central government wields powerful financial control with revenue-generating items under its jurisdiction, leading to state dependence on grants and financial assistance.
 - **Adoption of planning** as the instrument of Development after independence:
 - Planning led to considerable centralisation of economic decision making.
 - Planning Commission appointed by the Union government is the coordinating machinery that controls and supervises the resources management of the States.
 - The Union government uses its discretion to give grants and loans to States.
- **Governor's Powers:** The Governor possesses the authority to recommend the dismissal of the State government and the dissolution of the Assembly. Additionally, the Governor can reserve a bill passed by the State legislature for the President's assent.
 - This grants the central government the opportunity to postpone State legislation and review these bills, allowing them to be completely vetoed if necessary.
- **Central Government Legislation on State List Matters:** On certain occasions, the central government may legislate on matters from the State List with Rajya Sabha's ratification.

Article 257 (1): The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, 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.

- **Central Government's Instructions to State Government:** The executive powers of the central government are superior to those of the states, and it can give instructions to state governments.
- **Integrated Administrative System:** The all-India services, common throughout India, have officers who serve in state administrations under the central government's control, and states cannot take disciplinary actions against them.
 - India has an integrated administrative system where all-India services, like IAS and IPS, are common across the country. Officers serving in states, such as collectors and police commissioners, are under the control of the central government. States cannot take

disciplinary action or remove these officers from service without central government approval.

- **Articles 33 and 34:** Articles 33 and 34 empower Parliament to protect persons in service of the union or a state regarding actions taken during martial law, strengthening the central government's authority.
 - The Armed Forces Special Powers Act is based on these provisions, leading to tensions between the people and the armed forces on some occasions.

CONFLICTS IN INDIA'S FEDERAL SYSTEM

The Constitution grants significant powers to the central government, acknowledging the separate identity of the regions while giving more authority to the center. This has led to States seeking greater roles and autonomy in governance, leading to tensions and conflicts between the center and the States. Legal disputes can be resolved through the judiciary, but demands for autonomy require political negotiations.

CENTRE-STATE RELATIONS

Centre-State Relations in India have been influenced by the changing nature of the political process.

- **In the 1950s and early 1960s:** It highlights the period of **Jawaharlal Nehru's leadership and Congress dominance** in the 1950s and early 1960s, during which the foundation of federalism was laid.
 - The relations between the central government and the states were relatively normal, and states were hopeful of progress with grants-in-aid from the centre and policies of socio-economic development.
- **In the mid-1960s:** Congress dominance declined, and opposition parties came to power in many states.
 - This led to demands for **greater powers and autonomy for states**, as they protested against perceived interference by the Congress-led central government.
 - The idea of **autonomy under a federal system** was then discussed due to this unique political context.
- **From the 1990s onwards:** Congress dominance decreased further, leading to an era of coalition politics both at the centre and in states.
 - Different parties gained power, resulting in a greater say for states and a **respect for diversity**.
 - This phase marked the beginning of a **more mature federalism** in India, where the issue of autonomy became politically significant.

DEMANDS FOR AUTONOMY

Different aspects of autonomy demands made by various states and political parties in India:

- **Division of Powers:** Some states and parties demand a change in the distribution of powers in favor of states, seeking more important powers to be assigned to them.
 - **States like Tamil Nadu, Punjab, and West Bengal**, and parties like DMK, Akali Dal, and CPI-M have made such demands.
- **Financial Autonomy:** Another demand is for states to have independent sources of revenue and greater control over resources.
 - The Left Front Government in West Bengal in 1977 demanded a restructuring of center-state relations, supporting the idea of greater financial powers.
 - Tamil Nadu and Punjab also sought greater financial autonomy.
- **Administrative Powers:** States resent the control the central government exercises over the administrative machinery.

- **Cultural and Linguistic Issues:** Autonomy demands may also relate to cultural and linguistic issues.
 - Some states **oppose the domination of Hindi**, like in Tamil Nadu, while others demand advancement of their own regional languages and cultures, like in Punjab.
 - States also express concerns about perceived dominance of Hindi-speaking areas over others, which led to agitations in the 1960s against the imposition of Hindi language.

ROLE OF GOVERNORS AND PRESIDENT'S RULE

Role of Governors

- **Controversial Appointment:** The appointment of Governors has been a contentious issue between states and the central government. Governors are not elected and are often appointed by the central government, leading to perceptions of interference in state affairs.
- **Non-partisan Appointment:** The **Sarkaria Commission** recommended that Governor appointments should be strictly non-partisan to avoid controversies arising from political affiliations.
- **Controversial Powers:** Governors possess significant powers, which can become controversial, especially when different political parties are in power at the center and the state.

President's Rule

- **Article 356:** Article 356 of the Constitution allows for the imposition of President's rule in a state when the state government cannot function as per constitutional provisions.
- **Union Takeover:** President's rule results in the central government taking control of the state government's functioning.
- **Governor's Role:** The Governor plays a crucial role in the **imposition of President's rule**, recommending the dismissal of the state government and suspension or dissolution of the state assembly.
- **Controversial Use:** President's rule has been used in controversial ways, leading to conflicts and legal challenges. Some elected state governments were dismissed, even when they had a majority in the legislature, raising concerns about misuse of the provision.
- **Judicial Scrutiny:** The Supreme Court has ruled that the imposition of President's rule can be examined by the judiciary for its constitutional validity.
- **Post-1967 Usage:** President's rule was sparingly used until 1967. However, after that, it was more frequently used in states where non-Congress governments were in power while the Congress held the central government.

DEMANDS FOR NEW STATES

- The demand for the creation of new States in India has been influenced by the idea of common cultural and linguistic identity.
- **During the national movement**, the call for democracy and national unity also led to the recognition of distinct regional identities.
- After Independence, this sentiment led to the demand for linguistic States.
 - In response to these demands, the **States Reorganisation Commission** was established in **December 1953**, which recommended the creation of linguistic States, especially for major linguistic groups.
- The process of **forming linguistic States began in 1956** and has continued since then.
- **Some of the notable instances** of the creation of new States include:
 - **Gujarat and Maharashtra** were formed in **1960**.
 - **Punjab and Haryana** were separated in **1966**.
 - The **North Eastern region** witnessed reorganisation, leading to the creation of **Manipur, Tripura, Meghalaya, Mizoram, and Arunachal Pradesh**.

- In 2000, larger States like **Madhya Pradesh, Uttar Pradesh, and Bihar** were divided to create **Chhattisgarh, Uttarakhand, and Jharkhand**, respectively.
- In 2014, **Telangana** was formed by dividing Andhra Pradesh.
- Despite these developments, there are ongoing demands for separate statehood from some regions and linguistic groups, **such as Vidarbha in Maharashtra**.

INTERSTATE CONFLICTS

- The **federal system in India** has witnessed **disputes between the Centre and States** over issues like autonomy and revenue sharing.
- Additionally, there have been recurring disputes between States, which are **not merely legal but also have significant political implications**.
- These disputes can be resolved best through negotiations and mutual understanding.
- The **two major types of interstate** disputes are border disputes and conflicts over the sharing of river waters.

Border Disputes

- Border disputes arise when States claim territories belonging to their neighbors.
- These disputes cannot be easily resolved **based on linguistic majority, as border areas often have diverse language-speaking populations**.
- **Examples include:**
 - Maharashtra-Karnataka dispute over Belgaum
 - Manipur-Nagaland border issue
 - Punjab-Haryana conflict over Chandigarh's ownership

Water Disputes

- Disputes over river waters are even more **critical as they affect drinking water and agriculture in the concerned States**.
- River water disputes test the patience and cooperative spirit of the States, and some have reached the Supreme Court for resolution.
- **Examples:**
 - **Cauvery water dispute** between Tamil Nadu and Karnataka
 - **Narmada river dispute** involving Gujarat, Madhya Pradesh, and Maharashtra

SPECIAL PROVISIONS

- The federal arrangement in India exhibits an extraordinary feature of providing differential treatment to many States.
 - This asymmetrical representation is evident in the Rajya Sabha, where smaller States receive minimum representation, and larger States get more representation based on their size and population.
- Though constitution establishes a common division of powers for all States, but it also includes special provisions for certain States with **unique social and historical circumstances**.
- **Special Provisions for North Eastern:** The north-eastern States, such as Assam, Nagaland, Arunachal Pradesh, and Mizoram, benefit from these provisions due to their substantial indigenous tribal population and distinct history and culture.
- **Special Provisions for Hilly States and others:** Hilly States like **Himachal Pradesh** and other States like **Andhra Pradesh, Goa, Gujarat, Maharashtra, Sikkim, and Telangana** also have specific special provisions to address their unique requirements and circumstances.

JAMMU AND KASHMIR

- **A Princely State:** Jammu and Kashmir (J&K) was a large princely State with the option to join India, Pakistan, or remain independent after independence in 1947.

- However, due to Pakistan's invasion of tribal infiltrators, the Maharaja of J&K sought Indian help and acceded to the Indian Union.
- **Special status under Article 370:** J&K was granted special status under Article 370, providing it with greater autonomy compared to other States.
 - The State's concurrence was required for making laws in matters listed in the Union and Concurrent lists.
 - While other States automatically followed the division of powers, J&K had limited central government powers, and other powers from the Union and Concurrent lists required the State government's consent.
- **Special Provision it had:** Constitutional orders allowed the President, with J&K's concurrence, to apply large parts of the Indian Constitution to the State. **Although J&K had a separate constitution and flag**, the Parliament's power to make laws on Union List subjects was recognized.
 - Notably, **no emergency due to internal disturbances** could be declared in J&K without the State's concurrence, and the Union government could not impose a financial emergency or apply Directive Principles in the State.
 - **Amendments to the Indian Constitution (under Art. 368)** could apply with J&K's concurrence.
- **Present Status:** However, the special status granted under Article 370 no longer exists. The **Jammu and Kashmir Reorganisation Act 2019** bifurcated the State into **two Union Territories - Jammu and Kashmir and Ladakh - as of 31 October 2019**, ending the autonomous status of the State.

Federalism is akin to a rainbow, where separate elements come together to form a harmonious pattern. Maintaining a balance between the central government and States is challenging, and no legal formula guarantees smooth functioning. People and the political process must foster trust, toleration, and cooperation. Federalism celebrates unity and diversity, and forced unity can lead to strife and alienation. A responsive polity that values diversity and autonomy is essential for a cooperative federation.

Points to Remember

- **Sarkaria Commission** that was appointed by the central government (1983; it submitted its report in 1988) to examine the issues relating to centre-State relations.
- In 1985, the then Prime Minister Rajiv Gandhi reached an understanding with the leadership of Punjab in which Chandigarh was to be handed over to Punjab. But this has not happened yet.

QUESTIONS

1. Which of the following statements accurately describes federalism?

- a. Federalism is a system where power is concentrated in the central government, leading to excessive centralization.
- b. Federalism is a system where the central government dominates over regions with independent languages and cultures.
- c. Federalism is a system where regional governments have no autonomy and are completely controlled by the central government.
- d. Federalism is a form of government where power is divided between a central authority and regional governments.

Answer: D

Explanation:

- **Option (a) is incorrect: Federalism is actually a form of government where power is divided between a central authority and regional governments.** It aims to strike a balance between centralization and decentralization of power.
- **Option (b) is incorrect: While federalism does involve a central authority and regional governments, it does not necessarily imply domination of the central government over regions with independent languages and cultures.** In fact, federalism can be designed to accommodate and protect regional diversity and cultural identities.
- **Option (c) is incorrect: In federalism, regional governments do have a certain degree of autonomy and separate powers from the central government.** While there is coordination and cooperation between the two levels of government, regional governments retain authority over specific areas of governance.
- **Option (d) is correct: Federalism is indeed a system of government where power is divided between a central authority, responsible for handling national or common issues, and regional or state governments, responsible for local matters.**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

2. Consider the following statements about federalism in the Indian Constitution:
1. The Indian Constitution explicitly uses the term 'federation' to describe the country.
 2. The Constitution of India emphasizes unity while recognizing regional and linguistic diversity.
 3. Article 1 of the Indian Constitution defines India as a Union of States.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is incorrect: The Indian Constitution does not mention the word 'federation' to describe the country.** Instead, it describes India as a 'Union of States' in Article 1(1) of the Constitution.
- **Statement 2 is correct: The Constitution of India recognizes the diversity within the country, including regional and linguistic diversity.** It aims to promote unity among the states and the center while respecting and acknowledging the different cultures and identities within India.
- **Statement 3 is correct: Article 1(1) of the Indian Constitution explicitly states that India, which is also referred to as Bharat, shall be a Union of States.** The First Schedule of the Constitution specifies the states and territories that are part of this Union.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

3. Consider the following statements about the division of powers in the Indian Constitution:

1. The Union government has exclusive control over subjects like agriculture, police, and trade unions.
2. The Constitution of India clearly demarcates subjects that fall under the exclusive domain of the Union and those under the States.
3. Economic and financial powers are primarily decentralized to the State governments.
4. The Judiciary has no role in resolving disputes regarding the division of powers between the Union and the States.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: A

Explanation:

- **Statement 1 is incorrect: The Union government does not have exclusive control over subjects like agriculture, police, and trade unions.** These subjects fall under the State List, which means that the State governments have the authority to make laws and regulations regarding them.
- **Statement 2 is correct: The Indian Constitution clearly defines and demarcates subjects that are under the exclusive domain of the Union government (Union List) and those under the State governments (State List).** The division of powers between the Union and the States is clearly outlined in the Constitution.
- **Statement 3 is incorrect: In the Indian Constitution, economic and financial powers are centralized in the hands of the central government (Union government).** The Union government has the authority to make decisions and policies related to economic and financial matters.
- **Statement 4 is incorrect: The Judiciary plays a crucial role in resolving disputes related to the division of powers between the Union and the States.** If there is any dispute about which powers come under the control of the Union and which fall under the States, the Judiciary can intervene and interpret the constitutional provisions to provide a resolution.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

4. Consider the following statements about the strong central government in India's federal system:

1. The executive power of the union extends to giving directions to the state government, and the central government may choose to give instructions to the state government.
2. The central government has control over the all-India services.
3. Articles 33 and 34 of the Constitution authorize the Parliament to protect persons in the service of the union or a state during martial law.

How many of the above pairs are correctly matched?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct:** The executive power of the union extends to giving directions to the state government, and the central government has the authority to give instructions to the state government when necessary.
- **Statement 2 is correct:** The central government in India has control over the all-India services, such as the Indian Administrative Service (IAS) and Indian Police Service (IPS).
- **Statement 3 is incorrect:** Articles 33 and 34 of the Indian Constitution do not specifically pertain to the protection of persons in service during martial law. These articles grant powers to the Parliament to modify the application of fundamental rights for members of the armed forces, paramilitary forces, or intelligence agencies.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

5. Which of the following statements is true regarding conflicts in India's federal system?
- The Constitution grants equal powers and autonomy to both the central government and the states.
 - Legal disputes between the center and the states can only be resolved through negotiations.
 - The judiciary has no role in resolving conflicts between the center and the states or between states.
 - Demands for more powers and autonomy from the states have led to tensions and conflicts with the central government.

Answer: D

Explanation:

- **Option (a) is incorrect:** The Constitution of India grants certain powers and autonomy to the central government and certain powers to the states. However, the central government has been vested with more extensive powers compared to the states. This imbalance in power distribution has been a source of conflicts in the federal system.
- **Option (b) is incorrect:** While negotiations can be one way to resolve conflicts between the center and the states, legal disputes between them can also be resolved through the judiciary. The Supreme Court of India has the authority to adjudicate on matters of conflict between the central government and the states, ensuring a fair resolution.
- **Option (c) is incorrect:** The judiciary plays a crucial role in resolving conflicts between the center and the states or between states in India's federal system. The Supreme Court acts as the final arbiter and has the authority to interpret the Constitution and resolve legal disputes between different levels of government. It ensures the adherence to the principles of federalism and provides a mechanism for resolving conflicts.
- **Option (d) is correct:** Over time, various states in India have demanded more powers and autonomy in the governance of their respective states and the country as a whole. This has often created tensions and conflicts between the states and the central government, as the states seek a greater role in decision-making and more autonomy in policy implementation.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

6. Consider the following statements regarding the evolution of Centre-State relations in India:
- The Constitution of India provides a detailed framework for Centre-State relations, leaving little room for political influence.
 - In the 1950s and early 1960s, under the leadership of Jawaharlal Nehru, the foundation of Indian federalism was established.
 - Since the 1990s, coalition politics at both the centre and State levels have led to a more balanced and mature federalism, giving greater importance to the States.

How many of the above pairs are correctly matched?

- a. Only one
- a. Only two
- b. All three
- c. None

Answer: B

Explanation:

- **Statement 1 is incorrect: The Constitution of India does provide a framework for Centre-State relations, but the actual processes of politics significantly influence federalism in India.** The statement falsely suggests that political influence has limited relevance in shaping Centre-State relations.
- **Statement 2 is correct: During the 1950s and early 1960s, Jawaharlal Nehru played a crucial role in laying the foundation of Indian federalism.** This period saw the dominance of the Congress party both at the centre and in the States.
- **Statement 3 is correct: Since the 1990s, coalition politics has become more prominent at both the central and State levels.** This shift has resulted in a more balanced and mature federalism, giving greater importance to the States and respecting their diversity.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

7. Which of the following statements accurately reflects the demands for autonomy in various states and political parties?
- a. Autonomy demands often advocate for a redistribution of powers in favor of the central government and the assignment of important powers to the states.
 - b. The demand for autonomy primarily focuses on granting states independent sources of revenue and greater control over resources.
 - c. States resent the administrative control exerted by the central government and demand more autonomy in this regard.
 - d. Autonomy demands are exclusively related to cultural and linguistic issues, such as opposition to the dominance of Hindi or the advancement of regional languages.

Answer: C

Explanation:

- **Option (a) is incorrect: The demands for autonomy expect a change in the division of powers in favour of the states and the assignment of more powers and important powers to the states.** Therefore, the demands aim to shift power from the central government to the states, not the other way around.
- **Option (b) is incorrect: One aspect of autonomy demands is financial autonomy, which refers to states having independent sources of revenue and greater control over resources.** However, it is not the primary focus of autonomy demands, as there are other aspects mentioned as well.
- **Option (c) is correct: The states resent the control of the center over the administrative machinery.** Therefore, there is a demand for more autonomy in terms of administrative powers.
- **Option (d) is incorrect: While cultural and linguistic issues are one aspect of autonomy demands, it is not the exclusive focus of these demands.** There are demands for changes in the division of powers, financial autonomy, and control over administrative powers.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

8. Consider the following statements:

1. The Governor is an elected office-holder who represents the state government at the central level.
2. The Sarkaria Commission recommended that the appointments of Governors should be strictly based on party affiliations.
3. Article 356 of the Constitution allows for the imposition of President's rule in a state when the state government cannot function according to the Constitution.
4. The Governor has the power to recommend the dismissal of the State government and suspension or dissolution of the State assembly.

Which of the statements given above are correct?

- a. 3 and 4 only
- b. 1 and 3 only
- c. 1, 2 and 3 only
- d. 2 and 4 only

Answer: A

Explanation:

- **Statement 1 is incorrect: The Governor is not an elected office-holder.** The Governor of a state is appointed by the President of India on the advice of the central government.
- **Statement 2 is incorrect: The Sarkaria Commission, appointed by the central government in 1983 to examine center-state relations, recommended that appointments of Governors should be strictly non-partisan.** The idea is to ensure that Governors act in a neutral and impartial manner, without favoring any political party.
- **Statement 3 is correct: Article 356 of the Indian Constitution empowers the President of India to impose President's rule** in a state if there is a breakdown of constitutional machinery and the state government cannot function in accordance with the provisions of the Constitution.
- **Statement 4 is correct: The Governor, as the constitutional head of the state, has certain powers,** including the power to recommend the dismissal of the state government and the suspension or dissolution of the state assembly in certain situations.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

9. Which of the following statements regarding the creation of new States in India is correct?
- a. The demand for linguistic States emerged during the national movement for democracy.
 - b. The States Reorganisation Commission was established in 1960 to recommend the creation of new States.
 - c. Gujarat and Maharashtra were the first linguistic States to be created after India's Independence.
 - d. Chhattisgarh, Uttarakhand, and Jharkhand were formed by dividing Bihar, Uttar Pradesh, and Madhya Pradesh, respectively.

Answer: A

Explanation:

- **Option (a) is correct: During the national movement in India, there was not only a focus on achieving independence but also a movement for democracy.** As part of this movement, it was decided that States would be created based on common cultural and linguistic identities. This ultimately led to the demand for the creation of linguistic States after Independence.
- **Option (b) is incorrect: The States Reorganisation Commission was actually set up in December 1953, not in 1960.** Its primary purpose was to recommend the creation of linguistic

States, at least for the major linguistic groups. The commission played a significant role in the reorganisation of states in India.

- **Option (c) is incorrect: While Gujarat and Maharashtra are indeed linguistic States in India, they were not the first to be created after Independence.** They were established as separate States in 1960, but before that, there were other linguistic States that were formed. For example, Andhra Pradesh, formed in 1956, was one of the earliest linguistic States created.
- **Option (d) is incorrect:** In 2000, as a response to demands for separate states and for greater administrative efficiency, the larger states of Madhya Pradesh, Uttar Pradesh, and Bihar were divided. **This division led to the creation of three new States: Chhattisgarh (from Madhya Pradesh), Uttarakhand (from Uttar Pradesh), and Jharkhand (from Bihar).**

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

10. With reference to the special status of Jammu and Kashmir, consider the following statements:

1. The special status was granted to Jammu and Kashmir under Article 370 of the Indian Constitution, giving it greater autonomy than other states.
2. The special status allowed the central government to exercise full legislative powers over Jammu and Kashmir without the consent of the State government.
3. The President, with the concurrence of the State government, could specify which parts of the Union list should apply to Jammu and Kashmir.
4. The Jammu and Kashmir Reorganisation Act 2019 transformed the state into a single Union Territory.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: B

Explanation:

- **Statement 1 is correct: Under Article 370 of the Indian Constitution, Jammu and Kashmir was granted special status, which provided it with greater autonomy compared to other states.** The concurrence of the State government was required for making any laws in matters mentioned in the Union and Concurrent lists.
- **Statement 2 is incorrect: The special status did not grant the central government full legislative powers over Jammu and Kashmir without the consent of the State government.** On the contrary, the central government had only limited powers, and the powers listed in the Union list and Concurrent list could be used only with the consent of the State government.
- **Statement 3 is correct: There was a constitutional provision that allowed the President, with the concurrence of the State government, to specify which parts of the Union list should apply to Jammu and Kashmir.** The President issued two Constitutional orders in concurrence with the government of J&K, making large parts of the Indian Constitution applicable to the State.
- **Statement 4 is incorrect: The Jammu and Kashmir Reorganisation Act 2019, which came into effect on October 31, 2019, bifurcated the State of Jammu and Kashmir into two Union Territories, namely Jammu and Kashmir, and Ladakh.** Therefore, the special status granted under Article 370 no longer exists.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 7/ Federalism

CHAPTER 8: LOCAL GOVERNMENTS

INTRODUCTION

In a democracy, it is important to have **elected representatives** at the local level to manage local affairs. **73rd and 74th amendments** gave constitutional status and powers to the local government bodies.

LOCAL GOVERNMENTS

- Local governments play a **crucial role** in strengthening democratic processes by bringing government closer to the common people.
- They provide opportunities for **meaningful participation, accountability, and efficient administration**.
- The following stories illustrate the **transformative power** of local governments in India after they were granted constitutional status in 1993.

LOCAL GOVERNMENTS AND DEMOCRATIC PARTICIPATION

- Local governments promote meaningful participation in decision-making processes.
- They provide a platform for common citizens to be actively involved in shaping policies that directly impact their lives and development.
- As citizens are more familiar with local issues, decisions made at the local level are often more informed and effective.

LOCAL GOVERNMENTS AND ACCOUNTABILITY

- Strong and vibrant local governments ensure **purposeful accountability**.
- Elected representatives at the local level are directly answerable to their constituents, making them more responsive to the needs and concerns of the people they represent.
- Accountability at the local level strengthens the overall democratic fabric.

EMPOWERING COMMON PEOPLE THROUGH LOCAL GOVERNMENTS

- Local governments empower common people to actively participate in governance.
- They enable citizens to have a say in decisions that affect their daily lives and welfare.
- **Strengthening local governments ultimately strengthens democratic processes by fostering citizen engagement and ownership.**

GROWTH OF LOCAL GOVERNMENT IN INDIA

- **Early Origins of Local Government:** India's history shows the existence of self-governing village communities known as 'sabhas' (village assemblies).
 - Over time, these village bodies evolved into **Panchayats**, which were assemblies of five persons resolving local issues.
- **Creation of Elected Local Government Bodies (1882):** Lord Rippon, the Viceroy of India, initiated the creation of elected local government bodies called **local boards**.
 - However, progress in this regard was slow, and the **Indian National Congress** urged the government to enhance the effectiveness of local bodies.
- **Village Panchayats after Government of India Act 1919 and 1935:** Village Panchayats were established in several provinces following the **Government of India Act 1919**.

- Enactment of the **Government of India Act 1935**, further emphasizing local governance.
- **Mahatma Gandhi's Advocacy for Decentralization:** During India's freedom movement, **Mahatma Gandhi** strongly advocated for the decentralization of economic and political power.
 - He believed that strengthening village panchayats was essential for effective decentralization and participatory **democracy**.
- **Constitutional Aspects of Local Government:** The Constitution assigned the subject of local government to the States and included it in the **Directive Principles of State Policy**.
 - The provision related to local government in the Directive Principles was advisory and non-justiciable in nature.
- **Factors Influencing Constitutional Treatment of Local Government: Turmoil due to the Partition led to a strong unitary inclination in the Constitution.**
 - Nehru expressed concerns about extreme localism posing a threat to national unity and integration.
 - **Dr. B.R. Ambedkar** and others feared that factionalism and caste divisions in rural society might hinder the noble purpose of local government.
- **No one denied the importance of people's participation in development planning.**

LOCAL GOVERNMENTS IN INDEPENDENT INDIA

- **Community Development Programme (1952):** The Community Development Programme in 1952 aimed to **promote people's participation in local development activities**.
 - The need for a **three-tier Panchayati Raj system of local government** was recognized for rural areas.
- **Limited Powers and Functions of Local Bodies:** In the early years, some states like Gujarat and Maharashtra adopted elected local bodies, but many states **lacked sufficient powers and functions for local development**.
 - Financial dependence on the state and central governments **hindered their autonomy**.
- **Challenges to Establishment and Sustenance:** Some states did not prioritize **establishing elected local bodies**, often **dissolving existing ones and handing over local governance to government officers**.
 - Indirect elections were common, and elections were **postponed in many instances**.
- **Review and Recommendations (1987-1989):** In 1987, a comprehensive review of local government institutions began.
 - The P.K. Thungon Committee (1989) recommended **constitutional recognition for local government bodies**.
 - The committee proposed periodic elections, allocation of appropriate functions, and the provision of funds for local governments.
- **Constitutional Amendments for Empowerment:** In the aftermath of the review and recommendations, the **73rd and 74th Constitution Amendment Acts were enacted in 1992**.
 - These amendments provided constitutional recognition to Panchayats and Municipalities and mandated periodic elections and allocation of functions, responsibilities, and funds.

73RD AND 74TH AMENDMENTS

- **Introduction of Constitutional Amendments:** In 1989, the central government introduced **two constitutional amendments to strengthen local governments and ensure uniformity in their structure and functioning**.

- The Constitution of Brazil serves as an example of a system with **independent powers and jurisdiction for States, Federal Districts, and Municipal Councils**, preventing interference between them.
- **73rd Amendment: Empowering Rural Local Governments:** The 73rd Amendment pertains to **rural local governments**, also known as **Panchayati Raj Institutions (PRIs)**.
 - It aimed to **decentralize power, enhance local governance, and promote people's participation in rural development**. The amendment came into force in 1993.
- **74th Amendment: Provisions for Urban Local Governments:** The 74th Amendment focuses on **urban local governments**, known as **Nagarpalikas or Municipalities**.
 - It aimed to **empower urban local bodies, ensuring better governance and civic management**. Like the 73rd Amendment, it became effective in 1993.
- **Implementation and State Laws:** Local government is a 'State subject,' allowing each state to create its own laws on this matter.
 - However, after the constitutional amendments were passed, states were required to **align their local body laws with the amended Constitution**.
 - States were given a one-year period to make necessary changes to their laws to comply with the amendments.

73RD AMENDMENT

- **Three Tier Structure:** The 73rd Amendment introduced a **uniform three-tier structure for Panchayati Raj institutions**.
 - The base level is the **Gram Panchayat**, covering a village or group of villages.
 - The intermediary level is the **Mandal or Taluka Panchayat**, and at the apex is the **Zilla Panchayat** covering the entire rural area of the District.
- **Gram Sabha and Elections:** The amendment mandated the creation of the **Gram Sabha**, comprising all adult members registered as voters in the Panchayat area.
 - All three levels of Panchayati Raj institutions are **elected directly by the people for a term of five years**.
 - In case of dissolution, fresh elections must be held within six months to ensure the existence of elected local bodies.
- **Reservations for Marginalized Groups:** **One-third of the positions in all Panchayat institutions are reserved for women**.
 - Reservations for **Scheduled Castes (SCs) and Scheduled Tribes (STs)** are provided at all three levels based on their population.
 - Some States can also provide reservations for **Other Backward Classes (OBCs)**.
- **Transfer of Subjects:** **Twenty-nine subjects from the State list were identified and listed in the Eleventh Schedule of the Constitution to be transferred to Panchayati Raj institutions**. These subjects are related to local development and welfare functions.
- **Extension to Adivasi Areas:** The provisions of the 73rd Amendment were extended to areas inhabited by Adivasi populations through a separate act in 1996. The act protected the rights of these communities to manage their resources while introducing modern elected bodies.
- **State Election Commissioner:** The State government appoints a **State Election Commissioner** responsible for conducting Panchayati Raj institution elections, ensuring autonomy in the process.
- **State Finance Commission:** The State government appoints a **State Finance Commission every five years** to review the financial position and revenue distribution between the State and local governments. This innovation ensures a non-political allocation of funds to rural local governments.

Article 243G of the Indian Constitution empowers the Legislature of a State to endow Panchayats with powers, authority, and responsibilities concerning the matters listed in the Eleventh

Schedule. The Eleventh Schedule contains **29 subjects related to local development and welfare functions at the grassroots level**, which are to be transferred to Panchayats. The State Legislature can enact laws to **delegate appropriate functions and responsibilities to Panchayats**, thus empowering them to address local issues effectively.

74TH AMENDMENT

- **Definition of Urban Area:** The 74th Amendment deals with **urban local bodies** or **Nagarpalikas**.
 - The **Census of India** defines an urban area based on **minimum population, non-agricultural occupations, and population density**.
- **Similarities with the 73rd Amendment:** The 74th Amendment largely mirrors the **73rd Amendment** but applies specifically to **urban areas**.
 - Provisions regarding **direct elections, reservations, transfer of subjects, State Election Commission, and State Finance Commission** are incorporated in the 74th Amendment.
- **Transfer of Functions to Urban Local Bodies:** The Constitution mandates the transfer of a list of functions from the State government to urban local bodies.
 - These functions are listed in the **Twelfth Schedule** of the Constitution.

The **Eleventh Schedule** of the **Indian Constitution** contains subjects that are devolved to **Panchayats** (rural local bodies) for their governance and implementation. Some of the subjects listed in the Eleventh Schedule are:

- **Agriculture**, including agricultural extension.
- **Land improvement**, implementation of land reforms, land consolidation, and soil conservation.
- **Animal husbandry**, dairying, and poultry.
- **Fisheries**.
- **Minor irrigation**, water management, and watershed development.
- **Social forestry** and farm forestry.
- **Small-scale industries**, including food processing industries.
- Khadi, village, and cottage industries.
- **Rural housing**.
- **Drinking water**.
- Fuel and fodder.
- **Roads**, culverts, bridges, ferries, waterways, and other means of communication.
- **Education**, including primary and secondary schools.
- Non-conventional energy sources.
- **Poverty alleviation programs**.
- Public distribution system.
- Maintenance of community assets.
- Economic and social planning.

These subjects encompass a range of development and welfare functions at the grassroots level, empowering Panchayats to address local needs and promote inclusive development in rural areas.

IMPLEMENTATION OF 73RD AND 74TH AMENDMENTS

- **Growth of Local Bodies:** All States have passed legislation to implement the provisions of the **73rd and 74th Amendments**.
 - Over **600 Zilla Panchayats**, **6,000 block Panchayats**, **2,40,000 Gram Panchayats** in rural India, and more than **100 city Corporations**, **1,400 town Municipalities**, and **2,000 Nagar Panchayats** in urban India were established.
 - More than **32 lakh members**, including at least **13 lakhs women**, are elected to these bodies every five years.
- **Empowering Women: Reservation for women** at Panchayats and Nagarpalikas has increased women's representation in local bodies.
 - Many women hold positions of Sarpanch, Adhyaksha, and Mayors, gaining more power and confidence.
 - Women's presence has brought new perspectives and sensitivity to local discussions.
- **Social Representation:** Reservation for Scheduled Castes, Scheduled Tribes, and Backward Castes has altered the social profile of local bodies, making them more representative of the community they serve.
 - Tensions may arise as dominant groups resist giving up power, but it reflects the struggle to make democracy more inclusive.

CHALLENGES

- Local bodies face **limited autonomy** in performing their assigned functions, and many States have not transferred most subjects to them.
- Local governments have **little financial independence** and depend heavily on state and central governments for funding.
- This financial dependence erodes their **capacity to operate effectively**, and they often spend more than they earn, relying on grants from higher authorities.

Local governments are still **agencies implementing** the central and State government schemes. **More power to local government** means real **decentralisation of power**. Democracy means that **power should be shared by the people** in the villages and urban localities. The laws about local governments are a step towards **democratisation**, but the true test is in the **practice** of those provisions.

Bolivian Success in Democratic Decentralization

- **Bolivia** is a prime example of **successful democratic decentralization** in Latin America.
- The **1994 Popular Participation Law** enabled popular mayoral elections, established municipalities, and introduced automatic fiscal transfers.
- Local governments handle local health, education, and infrastructure.
- Fiscal transfers support their budget, with additional revenue from levies.
- True decentralization requires empowering local governments for effective decision-making and democratic participation.

QUESTIONS

CHAPTER 8 – LOCAL GOVERNMENTS

1. Consider the following statements about the importance of local governments in a democratic setup:
 1. Local government facilitates participation and accountability of citizens in decision-making processes.
 2. Local government is primarily concerned with national-level issues and policies.
 3. Local government is less efficient and costly compared to centralized government structures.
 4. Local government has limited impact on the day-to-day lives and problems of ordinary citizens.

Which of the statements given above is/are correct?

- a. 1 only
- b. 1, 2 and 4 only
- c. 3 and 4 only
- d. 3 only

Answer: A

Explanation:

- **Statement 1 is correct: Local governments provide a platform for citizens to actively participate in decision-making processes that directly affect their lives.** Local governments are closer to the common people and involve them in addressing their day-to-day problems and needs. They also ensure accountability by allowing citizens to have a say in local governance.
- **Statement 2 is incorrect: Local government primarily focuses on governing at the village and district level, addressing the local needs and concerns of the citizens.** While local governments may coordinate with higher levels of government on certain issues, their primary responsibility lies in catering to the local interests of the people.
- **Statement 3 is incorrect: Local governments are efficient and people-friendly.** They are convenient for the citizens to approach for problem-solving, providing quick and cost-effective solutions. The proximity of local government to the people enhances its efficiency in addressing local issues promptly.
- **Statement 4 is incorrect: Local governments are involved in the day-to-day life and problems of ordinary citizens.** They believe that local knowledge and local interest are crucial for democratic decision-making and effective administration. Local governments are capable of protecting the local interests of the people and can bring about significant changes in their communities.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

2. Consider the following statements about the growth of local government in India and its mention in the Constitution:
- 1. The concept of self-governing village communities called 'sabhas' existed in ancient India, which later evolved into Panchayats.
 - 2. Elected local government bodies known as local boards were established during Lord Rippon's tenure as the Viceroy of India in 1882.
 - 3. The subject of local government was assigned to the Union Government in the Constitution, emphasizing its significance.
 - 4. The Constitution's Directive Principles included provisions on local government as advisory directives to all governments.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct: It is believed that self-governing village communities in the form of 'sabhas' existed in India from ancient times, and over time, these evolved into Panchayats.**
- **Statement 2 is correct: Elected local government bodies were indeed established during Lord Rippon's tenure, they were called 'local boards,'.**

- **Statement 3 is incorrect: The subject of local government was assigned to the States, not the Union Government, in the Constitution.** The Constitution provided for a federal structure, and local government was considered a state subject.
- **Statement 4 is correct: The Constitution's Directive Principles included provisions on local government as advisory directives to all governments in the country.** These principles were non-justiciable and primarily served as policy guidelines.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

3. Consider the following statements regarding local governments in independent India:

1. The Community Development Programme in 1952 aimed to promote people's participation in local development activities.
2. Some states, such as Gujarat and Maharashtra, adopted the three-tier Panchayati Raj system of local government around 1960.
3. Local bodies in many states lacked sufficient powers and functions for local development and relied heavily on financial assistance from the state and central governments.
4. The P.K. Thungan Committee, formed in 1989, recommended constitutional recognition for local government bodies, including periodic elections, appropriate functions, and funds.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: D

Explanation:

- **Statement 1 is correct: The Community Development Programme, initiated in 1952, was designed to encourage people's participation in local development activities.** It aimed to involve communities in various development projects and empower them to take responsibility for their own development.
- **Statement 2 is correct: Some states, including Gujarat and Maharashtra, did adopt the three-tier Panchayati Raj system of local government around 1960.** The Panchayati Raj system consists of three levels: Gram Panchayat at the village level, Panchayat Samiti at the block level, and Zila Parishad at the district level. These bodies are responsible for local governance and development.
- **Statement 3 is correct: In many states, the local bodies did not have enough powers and functions to effectively carry out local development activities.** They were highly dependent on financial assistance from the state and central governments to carry out their responsibilities. This lack of autonomy hindered their ability to address local issues effectively.
- **Statement 4 is correct: The P.K. Thungan Committee, established in 1989, did recommend constitutional recognition for local government bodies.** It proposed that local government institutions should have periodic elections, clear functions assigned to them, and adequate funds to carry out their responsibilities. This recognition aimed to strengthen and empower local governments in India.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

4. Consider the following statements regarding the 73rd and 74th Amendments to the Indian Constitution:

1. The 73rd Amendment pertains to rural local governments, while the 74th Amendment pertains to urban local governments.

2. The 73rd and 74th Amendments came into force in 1993, and the states were given one year to make necessary changes in their laws to align with the amended Constitution.

Which of the statements given above are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: C

Explanation:

- **Statement 1 is correct: The 73rd Amendment of the Indian Constitution specifically deals with rural local governments, which are also known as Panchayati Raj Institutions (PRIs).** The 74th Amendment, on the other hand, focuses on urban local governments, referred to as Nagarpalikas.
- **Statement 2 is correct: The 73rd and 74th Amendments to the Indian Constitution came into force in 1993. Once these amendments were in effect, the states were required to modify their existing laws concerning local bodies to comply with the amended Constitution.** The states were given a timeframe of one year to make the necessary changes in their respective State laws to align them with the provisions of the 73rd and 74th Amendments.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

5. Consider the following statements regarding the changes brought about by the 73rd Amendment in Panchayati Raj institution:

- 1. The 73rd Amendment introduced a uniform three-tier structure for Panchayati Raj institutions across all states.
- 2. The base level of the three-tier structure is the Gram Panchayat, which covers a village or group of villages.
- 3. The intermediary level of the three-tier structure is the Mandal or Taluka Panchayat, which is not mandatory to be constituted in smaller states.
- 4. The apex level of the three-tier structure is the Zilla Panchayat, which covers the entire rural area of the district.
- 5. The 73rd Amendment also mandated the creation of the Gram Sabha, comprising all adult members registered as voters in the Panchayat area.

Which of the statements given above are correct?

- a. 1, 3 and 5 only
- b. 2, 3, 4 and 5 only
- c. 1, 2 and 4 only
- d. 1, 2, 3, 4 and 5

Answer: D

Explanation:

- **Statement 1 is correct: The 73rd Amendment mandated a uniform three-tier structure for Panchayati Raj institutions in all states of India.** This means that all states must have Gram Panchayats, Mandal or Taluka Panchayats, and Zilla Panchayats as part of their Panchayati Raj system.
- **Statement 2 is correct: The Gram Panchayat is the basic level of the three-tier Panchayati Raj structure.** It represents and governs a single village or a group of villages. It is responsible for local governance and development at the grassroots level.
- **Statement 3 is correct: The intermediary level in the three-tier Panchayati Raj structure is the Mandal or Taluka Panchayat.** However, it is not mandatory to constitute Mandal or Taluka

Panchayats in smaller states. The decision to establish these bodies lies with the respective state governments.

- **Statement 4 is correct:** At the apex is the Zilla Panchayat **covering the entire rural area of the District.**
- **Statement 5 is correct:** **The 73rd Amendment made it mandatory to create a Gram Sabha, which consists of all adult members who are registered as voters in the Panchayat area.** The Gram Sabha has a significant role in the decision-making process of the Panchayati Raj institutions and is involved in various local governance activities.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

6. Which of the following statements is correct regarding the elections and terms of Panchayati Raj institutions in India?

- The three levels of Panchayati Raj institutions are elected directly by the people.
- The term of each Panchayat body is three years.
- If the State government dissolves the Panchayat before the end of its five-year term, fresh elections must be held within three months of such dissolution.
- Before the 73rd amendment, in many States, there used to be direct elections to the district bodies, and there was provision for immediate elections after dissolution.

Answer: A

Explanation:

- **Option (a) is correct:** **All three levels of Panchayati Raj institutions are elected directly by the people.** The people have the right to vote and elect their representatives at the Panchayat level.
- **Option (b) is incorrect:** **The term of each Panchayat body is five years.** The elected representatives serve for a period of five years before fresh elections are conducted.
- **Option (c) is incorrect:** **If the State government dissolves the Panchayat before the end of its five-year term, fresh elections must be held within six months of such dissolution.** The time period mentioned is six months, not three months.
- **Option (d) is incorrect:** **The 73rd amendment, in many States, there used to be indirect elections to the district bodies, and there was no provision for immediate elections after dissolution.** The 73rd amendment to the Indian Constitution brought about significant changes in the Panchayati Raj system, including the introduction of direct elections at all levels.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

7. Consider the following statements regarding reservations in Panchayat institutions:

- Reservations for Scheduled Castes and Scheduled Tribes are provided in proportion to their population.
- Reservations for Other Backward Classes (OBCs) are mandatory at all three levels of Panchayat institutions.
- Reservation of one-third of the seats for women applies only to the general category of seats.

How many of the statements given above are correct?

- Only one
- Only two
- All three
- None

Answer: A

Explanation:

- **Statement 1 is correct:** Reservations for Scheduled Castes and Scheduled Tribes are provided at all three levels of Panchayat institutions in proportion to their population.
- **Statement 2 is incorrect: The provision for reservations for Other Backward Classes (OBCs) in Panchayat institutions is not mandatory.** It is mentioned that if the states find it necessary, they can provide for reservations for OBCs.
- **Statement 3 is incorrect: The reservation of one-third of the seats for women applies not only to the general category of seats but also within the seats reserved for Scheduled Castes, Scheduled Tribes, and backward castes.** In other words, a seat can be simultaneously reserved for a woman candidate and one belonging to the Scheduled Castes or Scheduled Tribes.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

8. With reference to the transfer of subjects to Panchayati Raj institutions and the 73rd amendment to the Indian Constitution, consider the following statements:
1. The transfer of subjects to the local bodies is solely determined by the central government.
 2. The separate act passed in 1996 extended the provisions of the Panchayat system to areas inhabited by Adivasi populations.
 3. The new act passed in 1996 empowers elected village panchayats to manage common resources without the consent of the Gram Sabha in Adivasi areas.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is incorrect: The transfer of subjects to the Panchayati Raj institutions is not solely determined by the central government.** According to Article 243G of the Constitution, each State has the power to decide how many of the twenty-nine subjects listed in the Eleventh Schedule would be transferred to the local bodies. It depends on the State legislation and the decisions made by the respective State governments.
- **Statement 2 is correct: In 1996, a separate act was passed to extend the provisions of the Panchayat system to areas inhabited by Adivasi populations.** This act aimed to protect the rights of Adivasi communities to manage their resources in ways acceptable to them and granted more powers to the Gram Sabhas (village assemblies) in these areas.
- **Statement 3 is incorrect: The new act passed in 1996 actually empowers the Gram Sabhas in Adivasi areas and requires elected village panchayats to obtain the consent of the Gram Sabha in various respects.** The act recognizes the traditional customs and resource management practices of Adivasi communities and seeks to protect their rights while introducing modern elected bodies.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

9. Consider the following statements regarding the State Election Commissioner in India:
1. The State Election Commissioner is responsible for conducting elections to the Panchayati Raj institutions.
 2. The State Election Commissioner is appointed by the Election Commission of India.
 3. The State Election Commissioner is an independent officer and is not under the control of the State government.

4. The State Election Commissioner has the same level of autonomy as the Election Commissioner of India.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct: The State Election Commissioner is entrusted with the responsibility of conducting elections to the Panchayati Raj institutions, which are local self-government bodies in India.**
- **Statement 2 is incorrect: The State Election Commissioner is not appointed by the Election Commission of India.** Instead, the State government is responsible for appointing the State Election Commissioner.
- **Statement 3 is correct: The office of the State Election Commissioner is autonomous, similar to the Election Commissioner of India.** The State Election Commissioner is an independent officer and is not under the control of the State government.
- **Statement 4 is correct: Both the Election Commissioner of India and the State Election Commissioner have a similar level of autonomy in their respective domains.** They are independent officers responsible for conducting and overseeing elections, and they are not directly under the control of the government.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

10. Which of the following statements regarding the State Finance Commission is **not** correct?

- a. The State government is obligated to appoint a State Finance Commission every five years.
- b. The State Finance Commission assesses the financial status of the State government.
- c. The primary task of the State Finance Commission is to review the allocation of revenues between the State and local governments.
- d. The State Finance Commission ensures that the allocation of funds to rural local governments remains apolitical.

Answer: B

Explanation:

- **Option (a) is correct: The State government is obligated to appoint a State Finance Commission once in every five years.** This requirement is typically mentioned in the constitution or relevant laws of the specific country or state.
- **Option (b) is incorrect: The primary task of the State Finance Commission is not to assess the financial status of the State government.** Instead, its main focus is on examining the financial position of the local governments within the state.
- **Option (c) is correct: One of the key responsibilities of the State Finance Commission is to review the distribution of revenues between the State government and the local governments.** It assesses how funds are allocated and distributed, ensuring that it is done fairly and equitably.
- **Option (d) is correct: One of the objectives of the State Finance Commission is to ensure that the allocation of funds to rural local governments remains apolitical.** By establishing an independent commission, the allocation process can be based on objective criteria and not influenced by political considerations. This helps in ensuring a fair distribution of funds to rural areas.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

11. Which of the following statements regarding the 74th Amendment to the Indian Constitution is correct?

- a. The 74th Amendment primarily focuses on rural local bodies or Gram Panchayats.
- b. An urban area, as defined by the Census of India, must have at least 50 per cent of male working population engaged in non-agricultural occupations
- c. The 74th Amendment is identical to the 73rd Amendment, with no significant variations.
- d. The Twelfth Schedule of the Constitution enumerates the functions to be transferred from the State government to urban local bodies.

Answer: D

Explanation:

- **Option (a) is incorrect: The 74th Amendment deals with urban local bodies or Nagarpalikas, not rural local bodies or Gram Panchayats.**
- **Option (b) is incorrect:** The Census of India defines an urban area as having: (i) a minimum population of 5,000; (ii) **at least 75 per cent of male working population engaged in non-agricultural occupations** and (iii) a density of population of at least 400 persons per sq. km
- **Option (c) is incorrect: While the 74th Amendment shares similarities with the 73rd Amendment, it specifically applies to urban areas, whereas the 73rd Amendment applies to rural areas.** The provisions of the 73rd Amendment relating to direct elections, reservations, transfer of subjects, State Election Commission, and State Finance Commission are incorporated into the 74th Amendment as well, but they are applicable to Nagarpalikas or urban local bodies.
- **Option (d) is correct: The Constitution mandates the transfer of a list of functions from the State government to the urban local bodies.** These functions are listed in the Twelfth Schedule of the Constitution.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments

12. Consider the following statements regarding the implementation of the 73rd and 74th amendments:

1. All states in India have successfully implemented the provisions of the 73rd and 74th amendments.
2. The 73rd and 74th amendments have significantly reduced the number of elected representatives in local bodies compared to the State Assemblies and Parliament.
3. The provision for reservation for women in local bodies has led to an increase in the number of women holding positions such as Sarpanch, Adhyaksha, and Presidents of block or taluka panchayats.
4. The local bodies have complete autonomy to perform the functions assigned to them, and the past decade has shown that they operate effectively without relying on the State and central governments for financial support.

How many of the statements given above are correct?

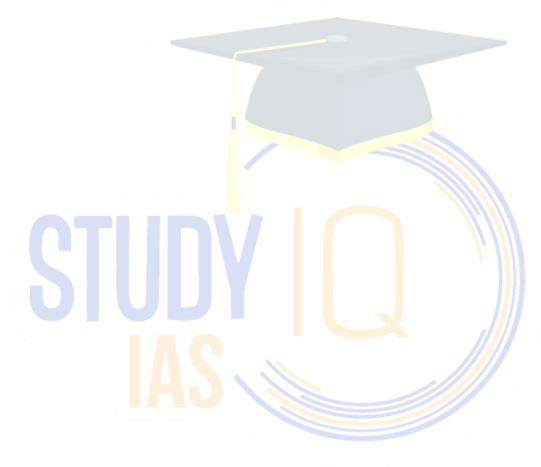
- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: B

Explanation:

- **Statement 1 is correct: All states have passed legislation to implement the provisions of the 73rd and 74th amendments, creating uniformity in the structures of local government institutions.**
- **Statement 2 is incorrect: Number of elected representatives has increased significantly with the implementation of the 73rd and 74th amendments.** While there are fewer elected representatives in the State Assemblies and Parliament, the number has significantly increased at the local level.
- **Statement 3 is correct: The provision for reservation for women in local bodies has ensured the presence of a significant number of women elected representatives.** It specifically mentions that a large number of women have come to occupy positions such as Sarpanch, Adhyaksha, and Presidents of block or taluka panchayats.
- **Statement 4 is incorrect: Local governments in India have limited autonomy to perform their assigned functions.** It further explains that the dependence of local bodies on the State and central governments for financial support has eroded their capacity to operate effectively. Therefore, they do not have complete autonomy and rely on external financial support.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 8/ Local Governments



Chapter 9: Constitution as a Living Document

INTRODUCTION

The Indian Constitution has worked for 69 years and has kept India united. The Constitution can change with the times through **amendments**. Many amendments have happened, but **the basic principles of the Constitution remain the same**. The **judiciary** protects and interprets the Constitution and the Constitution **evolves and adapts to new situations**.

ARE CONSTITUTIONS STATIC?

Constitutions are the fundamental legal frameworks that govern a nation, shaping its government and society. While some constitutions remain relatively static, others undergo frequent revisions to adapt to changing circumstances and societal needs.

- **The Unchanging Backbone:** India's Constitution, adopted on 26 November 1949 and implemented on 26 January 1950, has stood the test of time for over 69 years.
- **Foresight and Adaptability:** The Constitution makers were **visionary, considering various scenarios** providing solutions to future challenges.
 - However, no constitution can anticipate every eventuality, leading to the recognition of the need for amendments and modifications.
- **Embracing Change:** India's Constitution acknowledges the necessity of adaptations to address the evolving needs of society.
 - This open-minded approach allows for amendments to keep the Constitution relevant and effective.
- **Flexibility in Interpretation:** The Constitution's practical application relies on the flexibility of interpretation by both political practitioners and the judiciary.
 - Maturity and adaptability in interpretation have contributed to making the Constitution a living document.
- **Striking a Balance:** The challenge lies in maintaining a balance between addressing contemporary issues and providing a framework for the future.
 - The Indian Constitution strikes this balance by combining elements of a sacred document and one that can undergo necessary changes.
- **Society's Instrument:** Constitutions are created by human beings and serve as frameworks for **democratic governance**.
 - They embody the dreams and aspirations of a society while requiring periodic reassessment and revision.

How to Amend the Constitution?

- **The Constitution of India is a dynamic document that can be amended to reflect the changing needs of the nation.**
- Article 368 of the Constitution outlines the process for amending different parts of the Constitution.
- The amendment process is designed to strike a balance between flexibility and rigidity, ensuring that only elected representatives have the authority to consider and finalize amendments.

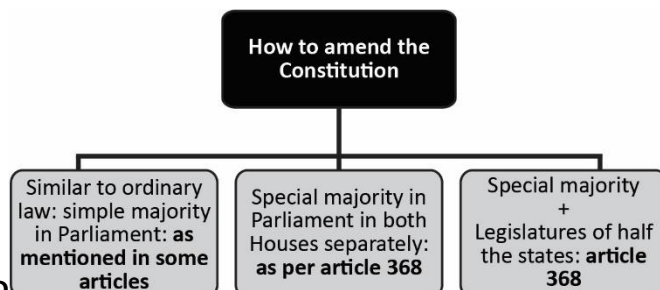
DIFFERENT METHODS FOR AMENDING THE CONSTITUTION:

FLEXIBLE AMENDMENTS

- Some articles in the Constitution can be amended through a simple law passed by the Parliament.
- No special procedure is required for these amendments, and they can be made without invoking Article 368.
- **Such provisions offer flexibility to address relatively straightforward changes in the Constitution.**

SPECIAL MAJORITY METHOD

- For amending other parts of the Constitution, the process involves a special majority of both houses of Parliament.
- This method applies to more significant amendments that require careful consideration and broad support.**



COMPLEX METHOD

- Some amendments require not only a special majority in Parliament but also the consent of half of the State legislatures.
- This more difficult method ensures that amendments with potential far-reaching implications undergo thorough scrutiny and garner significant support from the states.**

ROLE OF PARLIAMENT AND EXCLUSION OF OUTSIDE AGENCIES

- All amendments to the Constitution are initiated solely in the Parliament. No outside agency, such as a constitution commission or separate body, is involved in the amendment process.
- This upholds the principle of parliamentary sovereignty**, emphasizing that elected representatives hold the power to decide on amendments.

NO REFERENDUM REQUIRED FOR RATIFICATION

- After the amendment passes in the Parliament and, in some cases, in State legislatures, no referendum is necessary for ratification.
- The responsibility for ratification lies with elected representatives, ensuring democratic legitimacy.**

PRESIDENTIAL ASSENT

- Like all other bills, an amendment bill is sent to the President for assent.
- However, **the President has no authority to send the amendment bill back for reconsideration**, streamlining the process.

Article 2: Admitting New States into the Union

- It empowers Parliament to admit new states into the Union of India by passing a law. This provision is essential for the integration of new territories or regions that wish to become part of the Indian Union. When new territories or regions meet the necessary criteria and seek to join the Union, **Parliament can enact legislation to formalize their inclusion.**

Article 3: Alteration of State Boundaries

- It grants Parliament the authority to alter the boundaries of existing states through the enactment of a law. **Parliament may increase or diminish the area of any state as deemed**

necessary. This provision allows for the reorganization of states to address administrative and developmental needs, as well as to accommodate regional aspirations and demands.

SPECIAL MAJORITY

UNDERSTANDING SPECIAL MAJORITY

- In ordinary legislative matters, a simple majority of members present and voting is sufficient for passing a bill.
- However, amending the Constitution requires a **special majority**, which entails meeting two distinct conditions:
- The supporters of the amendment bill must constitute at least **half of the total strength of the House**.
- Additionally, the supporters must also make up **two-thirds of those participating in the voting**.

SIGNIFICANCE OF THE SPECIAL MAJORITY REQUIREMENT

- **Ensuring Widespread Support:** Requiring a special majority ensures that constitutional amendments have **widespread support** from elected representatives. It helps prevent hasty changes to the Constitution and ensures that amendments are thoroughly considered and agreed upon.
- **Upholding Democratic Consensus:** The special majority requirement reflects the principle of **parliamentary sovereignty** and **democratic decision-making**. By mandating a broad consensus, it safeguards against potential misuse of power by a ruling party with a thin majority.
- **Preventing Hasty Changes:** Requiring two-thirds of those present and voting ensures that a **significant proportion of the members actively support the amendment**. This prevents amendments from being passed with only a fraction of the House's members expressing their consent.
- **Need for Separate Approvals:** Another critical aspect is that **both Houses of Parliament must independently pass the amendment bill with special majorities**. This further emphasizes the need for consensus and support across political lines.
- **Fostering Cross-Party Cooperation:** The special majority requirement encourages political parties to engage in **dialogue and seek consensus** on proposed amendments. It promotes **cooperative decision-making** and **strengthens the spirit of democracy**.

PRINCIPLE OF SPECIAL MAJORITY

- **IMPORTANCE OF BROAD SUPPORT: MODERN CONSTITUTIONS OFTEN REQUIRE A SPECIAL MAJORITY TO AMEND THEIR FUNDAMENTAL LAWS. REQUIRING A LARGER MAJORITY ENSURES THAT CONSTITUTIONAL AMENDMENTS ARE NOT EASILY PASSED AND REFLECTS THE SIGNIFICANCE OF SUCH CHANGES.**
- **EXAMPLES OF SPECIAL MAJORITY REQUIREMENTS**
 - **United States:** The U.S. Constitution requires a **two-thirds majority vote** in both the House of Representatives and the Senate to propose an amendment. Alternatively, a two-thirds majority of state legislatures can call for a **constitutional convention** to propose amendments.
 - **South Africa:** The South African Constitution demands a **three-fourths majority** in the National Assembly to amend the constitution.
 - **Russia:** The Russian Constitution may require a **three-fourths majority** for specific amendments.

PRINCIPLE OF PEOPLE'S PARTICIPATION

- **INVOLVING CITIZENS IN THE AMENDMENT PROCESS:** MANY MODERN CONSTITUTIONS ENCOURAGE DIRECT PARTICIPATION OF THE CITIZENS IN THE AMENDMENT PROCESS. THIS FOSTERS DEMOCRATIC ENGAGEMENT AND ENSURES THAT CONSTITUTIONAL CHANGES REFLECT THE WILL OF THE PEOPLE.
- **EXAMPLES OF PEOPLE'S PARTICIPATION IN CONSTITUTIONAL AMENDMENTS**
 - **Switzerland:** In Switzerland, citizens can initiate an amendment through a **popular initiative**, provided a specific number of signatures is collected. The proposed amendment is then put to a **national referendum**, and a **double majority** is required for it to pass.
 - **Russia:** Russia also allows citizens to initiate amendments through **popular initiatives**, with a minimum number of signatures needed to propose changes.
 - **Italy:** In Italy, citizens can propose amendments through **popular initiatives**, but these must be examined and approved by the Parliament before being put to a referendum.

RATIFICATION BY STATES

PROTECTING FEDERALISM

- **Federalism and Distribution of Powers:** The Constitution's **federal nature** mandates that the powers of the States are protected from **undue interference** by the central government.
 - To safeguard this principle, amendments affecting States' powers require their **consultation and consent**.
- **Greater Consensus Needed:** For certain articles, a **greater consensus** in the polity is expected due to their impact on the **federal structure**. Ensuring wider participation in these amendments strengthens the **democratic process**.

RATIFICATION BY STATES

- **States' Participation in Amendment Process:** The Constitution mandates that before specific amendments come into effect, they must be **ratified by the legislatures of half the States**.
 - This provision grants the States a role in the amendment process, respecting their **sovereignty and federal authority**.
- **Flexibility in the Process:** The ratification process is somewhat flexible, as consent from only **half the States** is required.
 - Moreover, a **simple majority** in the State legislature is sufficient for ratification, ensuring the process remains **practical and workable**.

STRIKING A BALANCE

- **Large-Scale Consensus:** By involving States in certain amendments, the Constitution seeks to achieve a **broader consensus** in the nation.
 - This ensures that amendments with **far-reaching implications** enjoy widespread support.
- **Limited Participation:** Despite the requirement for States' consent, the amendment process remains **efficient and not overly cumbersome**.
 - It allows the nation to adapt to changing circumstances while respecting the democratic principles enshrined in the Constitution.

FOUNDING FATHERS' VISION

- **Protection Against Easy Tampering:** The Constitution's framers took great care to safeguard it from **easy and hasty amendments**.
 - The requirement for greater consensus and State participation ensures that amendments are thoroughly considered and meaningful.
- **Future Generations' Right to Amend:** While the Constitution is protected from casual tampering, future generations are granted the right to amend it as per the needs of the time.
 - This flexibility allows the Constitution to remain a **living document**, responsive to the changing dynamics of the nation.

WHY HAVE THERE BEEN SO MANY AMENDMENTS?

The Constitution of India has been amended **numerous times** since its adoption in 1950, with **103 amendments** recorded as of January 2019. Despite the relatively **stringent amendment process**, the frequency of amendments remains high. This article explores the reasons behind the significant number of amendments and whether it signifies any **inadequacies or excessive flexibility** in the original Constitution.

HISTORICAL OVERVIEW OF AMENDMENTS

- **Graphical Representation of Amendments:** The first graph shows the number of amendments made every ten years, indicating fluctuations in amendment activity over time.
 - The second graph depicts the time taken for every ten amendments, highlighting periods of concentrated amendment activity.

FACTORS INFLUENCING AMENDMENTS

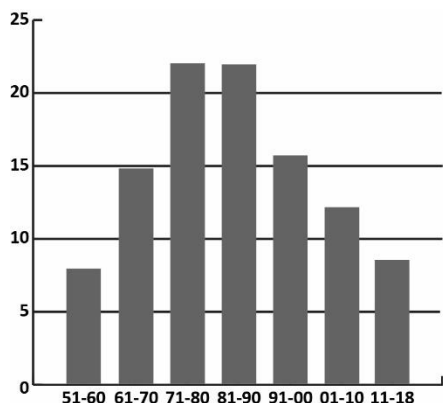
- **Periods of High Amendment Activity:**
 - **Congress-Dominated Era (1970-1990):** During this period, the Congress party had a **vast majority** in Parliament and controlled most State Assemblies. Congress's dominant position in politics led to a **higher number of amendments** during this era.
 - **Coalition Politics Era (2001-2003):** The early 2000s marked a period of **coalition politics**, with different parties in power in various States and a bitter rivalry between the BJP and its opponents. Despite the complexities of coalition politics, **ten amendments** were made in just three years, indicating that the incidence of amendments is not solely dependent on the ruling party's majority.
- **Amendments Reflecting Changing Needs:**
 - The steady stream of amendments in every decade, except the first, indicates the necessity of adapting the Constitution to **changing circumstances**. Amendments were required irrespective of the nature of politics and the party in power, reflecting the **dynamic nature** of governance and society.

ADDRESSING INADEQUACIES OR ENSURING FLEXIBILITY

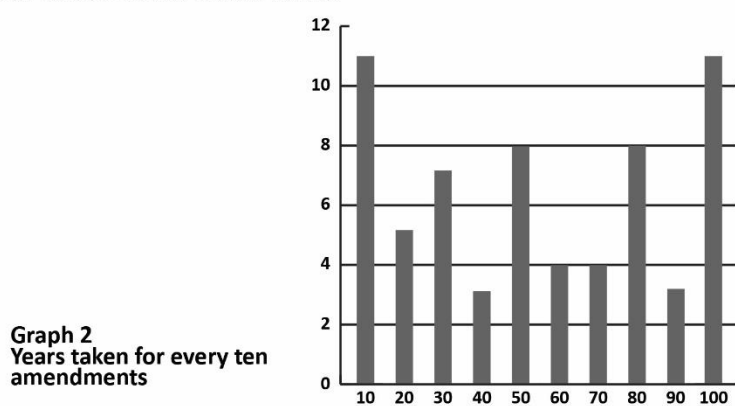
- **Criticisms of the High Number of Amendments:**
 - Some critics argue that the large number of amendments indicates **deficiencies or shortcomings** in the original Constitution.
- **Flexibility of the Constitution:** However, the need for regular amendments suggests that the Constitution is **adaptable and responsive** to the evolving needs of the nation. The flexibility of the

Constitution enables it to withstand the test of time and remain relevant in a changing socio-political landscape.

CONTENTS OF AMENDMENTS MADE SO FAR



Graph 1
Amendments per decade



Graph 2
Years taken for every ten amendments

- The Constitution of India has undergone **numerous amendments** to accommodate various needs and evolving political scenarios. The amendments can be classified into different categories based on their **nature and purpose**.
- This article explores the three main groups of amendments:** Technical or administrative changes, amendments arising from differing interpretations, and amendments resulting from political consensus or controversies.

TECHNICAL OR ADMINISTRATIVE AMENDMENTS:

- Minor Modifications and Clarifications:** Some amendments make **minor changes** to the original provisions, without altering their essence or substance.
 - Examples:** amendments to increase the retirement age of High Court judges and to increase salaries of judges.
- Extension of Reserved Seats:** Certain provisions, like **reservations for Scheduled Castes and Scheduled Tribes** in legislatures, require periodic amendments to extend the reservation period.
 - These amendments serve as technical adjustments to ensure fair representation.
- Reiterating Existing Provisions:** Amendments are occasionally made to reiterate provisions already present in the Constitution, providing additional clarity or emphasis.

INTERPRETATION CLASHES:

- Differences between Judiciary and Parliament:** Amendments are sometimes introduced to underline one particular interpretation as authentic when there are **conflicting interpretations** between the judiciary and the government.

- **Period of 1970-1975:** During this period, there were disagreements between the judiciary and Parliament regarding **fundamental rights, directive principles, right to private property, and Parliament's power to amend the Constitution**. Amendments were introduced to overcome adverse judicial interpretations.

AMENDMENTS THROUGH POLITICAL CONSENSUS

- **Reflecting Evolving Political Philosophy:** A significant number of amendments were passed as a result of **consensus among political parties** to reflect prevailing political philosophies and societal aspirations.
- **Post-1984 Period:** The post-1984 period saw amendments like the anti-defection amendment, reducing the voting age, and provisions regarding reservations, among others, based on evolving consensus.
- **Coalition Governments:** Even during periods of coalition governments, several amendments were made due to shared understanding on certain issues.

CONTROVERSIAL AMENDMENTS

- **Political and Legal Controversies:** Amendments made during the period 1970-1980 generated **legal and political controversies**. Amendments like the 38th, 39th, and 42nd amendments, passed during the internal emergency in 1975, were widely debated and perceived as attempts to subvert the Constitution.
- **The 42nd Amendment:** The 42nd amendment was particularly contentious, affecting significant parts of the Constitution, and even the duration of the Lok Sabha.
 - It was eventually reevaluated through the 43rd and 44th amendments after a change in government.

BASIC STRUCTURE AND EVOLUTION OF THE CONSTITUTION

- The theory of the basic structure of the Constitution, as established by the landmark **Kesavananda Bharati case**, has had a significant impact on the evolution of the Indian Constitution.
- This ruling sets limits to **Parliament's power to amend the Constitution** and places the **judiciary** as the final authority in determining if an amendment violates the basic structure.
- Over the past four decades, this theory has guided interpretations of the Constitution, contributing to its evolution through judicial interpretation.

THE THEORY OF BASIC STRUCTURE

- **Kesavananda Bharati Case:** The Supreme Court's ruling in the **Kesavananda Bharati case (1973)** introduced the theory of basic structure. The theory establishes specific limits to Parliament's power to amend the Constitution, stating that no amendment can violate the **basic structure**.
 - The Court allows Parliament to amend any part of the Constitution within the confines of this limitation.
- **Role of the Judiciary:** The Judiciary is considered the final authority in determining if an amendment violates the basic structure and defining what constitutes the basic structure.
 - The theory of basic structure is an example of a **living constitution**, emerging from judicial interpretation rather than being explicitly mentioned in the Constitution.

EVOLUTION THROUGH JUDICIAL INTERPRETATION:

- **Elaboration of Basic Structure Doctrine:** In the past four decades, the Supreme Court has elaborated on the theory of basic structure and provided examples of what constitutes the basic structure of the Constitution.

- The basic structure doctrine has balanced **rigidity and flexibility**, allowing amendments to all parts of the Constitution except those falling under the basic structure.
- **Judicial Interpretation and Informal Amendments:** Judicial interpretation has led to **informal amendments**, changing the understanding of the Constitution over time. The Court has set limits on **reservations** in jobs and educational institutions, establishing that they cannot exceed fifty percent of total seats.
 - Introduction of the “**creamy layer**” concept in reservations for other backward classes is another instance of judicial interpretation shaping the Constitution.
- **Contribution to the Evolution of Rights:** The Judiciary’s rulings have contributed to the evolution of **constitutional rights**, such as the right to education, right to life and liberty, and the right to form and manage minority educational institutions.

REVIEW OF THE CONSTITUTION

- In the late nineties, efforts were made to review the entire Constitution.
- In the year 2000 a **commission** to review the working of the Constitution was appointed by the Government of India under the chairmanship of a retired Chief Justice of the Supreme Court, **Justice Venkatachaliah**.
- Opposition parties and many other organisations **boycotted** the commission.
- While a lot of political controversy surrounded this commission, the commission stuck to the **theory of basic structure** and did not suggest any measures that would endanger the **basic structure of the Constitution**.
- This shows the significance of the basic structure doctrine in our constitutional practice.

CONSTITUTION AS A LIVING DOCUMENT

- The Indian Constitution is often referred to as a **living document** because, like a living being, it responds to changing situations and circumstances.
- It remains effective and relevant even after several changes in society due to its ability to be **dynamic, open to interpretations, and responsive** to evolving needs.
- This adaptability is a hallmark of a **democratic constitution**, allowing the protection and evolution of democratic practices over time.

DYNAMIC AND OPEN TO INTERPRETATIONS:

- **Responding to Experience:** Like a living being, the Constitution responds to the **experiences and challenges** faced by the nation over time.
 - It remains **flexible** to address emerging issues and new developments in society.
- **Durability and Effectiveness:** The Constitution’s ability to adapt has contributed to its **durability and continued effectiveness**.
 - Despite societal changes, it remains a relevant framework for governance.

● PROTECTING DEMOCRACY:

SUPREMACY OF PARLIAMENT:

- The concept of the **supremacy of Parliament** was a critical constitutional-legal issue from the early years of India’s independence.
- As a parliamentary democracy, Parliament represents the people and holds authority over the Executive and Judiciary.

OPERATING WITHIN THE FRAMEWORK:

- While Parliament is supreme, its powers must operate within the framework defined by the Constitution.
- Democracy is not just about representation but also about the **rule of law** and the functioning of democratic institutions.

BALANCING INSTITUTIONS:

- Democracy requires a **balance among political institutions** to ensure accountability to the people. Institutions, including the Executive, Parliament, and Judiciary, must work together to protect democracy.

CRITICAL SITUATIONS AND CONSTITUTIONAL DEVELOPMENT:

- **Challenges Faced:** Over the past six decades, India has encountered **critical situations** in politics and constitutional development.
 - Some of these challenges have tested the **balance between institutions** and the principle of **rule of law**.
- **Supremacy of Parliament Repeatedly Questioned:** The issue of the **supremacy of Parliament** has been repeatedly questioned in the context of its powers vis-à-vis other organs of the government.
- **Democracy and Institutional Development:** Democracy is not solely dependent on **electoral representation** but also on the development and functioning of **democratic institutions**.

CONTRIBUTION OF THE JUDICIARY

- **Resolving Tensions:** During controversies between the Judiciary and Parliament, the latter believed in making **pro-people laws and amendments**, while the former stressed adherence to the **Constitution's framework**.
 - The Judiciary emphasized that pro-people measures should not bypass **legal procedures** to prevent arbitrary use of power.
- **The Basic Structure Theory:** The Kesavananda ruling introduced the concept of the “**basic structure**” of the Constitution.
 - While the Constitution itself doesn't mention the basic structure, the Judiciary invented this theory to uphold the **essence and intent** of the Constitution.
- **Importance of Intent:** The Court highlighted that in interpreting a document, the **intent behind it** is crucial.
 - The basic structure was viewed as an essential component without which the Constitution would lose its **identity**.
- **Balancing Letter and Spirit:**
 - The Judiciary's approach sought to balance the **literal text** of the Constitution with the underlying **principles and aspirations** behind it.
 - The success of the Indian Constitution lies in harmonizing these elements to uphold **democratic principles** and safeguard the **well-being of the people**.

MATURITY OF THE POLITICAL LEADERSHIP

- **Realization of Balance:** During the intense controversy between 1967 and 1973, the Parliament and Executive recognized the need for a **balanced and long-term approach**.
 - Despite attempts to challenge the Kesavananda ruling, political leaders acknowledged the importance of the **inviolable basic structure**.
- **Dominance of Kesavananda Ruling:** The Kesavananda ruling continued to shape interpretations of the Constitution for over four decades.

- Political parties, leaders, and Parliament accepted the idea of the Constitution's **inviolable basic structure**.
- **Shared Vision:** At the time of independence, leaders and people shared a **common vision** for India.
 - The vision emphasized **dignity, freedom, social and economic equality, well-being for all, and national unity**.
- **Unwavering Values:** Despite the passage of time, the vision of the Constitution remains intact, earning respect and authority.
 - The enduring values governing the nation's public imagination keep the Constitution **relevant** even after half a century.

POINTS TO REMEMBER

- **Article 368:** Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.
- **France had numerous constitutions in the last two centuries:**
 - After the revolution and during the Napoleonic period, France underwent continuous experimentation about a constitution: The post revolution constitution of 1793 is called the period of the first French republic.
 - Then commenced the second French republic in 1848.
 - The third French republic was formed with a new constitution in 1875.
 - In 1946, with a new constitution, the fourth French republic came into being.
 - Finally, in 1958, the fifth French republic came into being with yet another constitution.

QUESTIONS

1. Which one of the following statements regarding constitutions is correct?
- a. Constitutions are static documents that do not require any changes or modifications.
 - b. The Soviet Union had the same constitution throughout its existence.
 - c. The Constitution of India has remained unchanged since its adoption in 1949.
 - d. The flexibility of interpretations and adaptations has made the Constitution of India a living document.

Answer: D

Explanation:

- **Option (a) is incorrect: Constitutions are not static documents and may require revisions, changes, and re-examination over time.** It emphasizes that no constitution can provide for all eventualities and that it is not possible for a document to be so perfect that it needs no change.
- **Option (b) is incorrect:** The Soviet Union had four different constitutions during its existence: in 1918, 1924, 1936, and 1977. **This highlights the fact that nations can rewrite their constitutions in response to changed circumstances or political upheavals.**
- **Option (c) is incorrect: The Constitution of India has been functioning since its implementation on January 26, 1950.** However, it also acknowledges that the constitution accepts the necessity of modifications according to the changing needs of society. While the basic framework of the Constitution is well-suited to India, it does not mean that there have been no changes or amendments to the constitution since its adoption.

- **Option (d) is correct: The actual working of the Constitution of India has shown enough flexibility of interpretations.** Both political practice and judicial rulings have demonstrated maturity and flexibility in implementing the Constitution. These factors have made the Constitution of India a living document rather than a closed and static rulebook.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

2. Consider the following statements about the amendment procedure of the Indian Constitution:
- a. The Indian Constitution is completely rigid and does not allow for any amendments.
 - b. The amendment procedure of the Indian Constitution requires the consent of the State legislatures in all cases and a special majority in both Houses of Parliament.
 - c. There are certain parts of the Constitution that can be amended by a simple majority in Parliament, just like passing an ordinary law.
 - d. The amendment procedure of the Indian Constitution requires a referendum for ratification of the amendment.

Answer: C

Explanation:

- **Option (a) is incorrect: The Indian Constitution is not completely rigid.** It provides for a procedure to amend the Constitution when required.
- **Option (b) is incorrect: The amendment procedure of the Indian Constitution requires a special majority in both Houses of Parliament.** However, the consent of the State legislatures is only required in certain cases, as mentioned in Article 368.
- **Option (c) is correct: There are certain parts of the Constitution that can be amended by a simple majority in Parliament, just like passing an ordinary law.** These parts are mentioned in the Constitution itself and do not require the special procedure laid down in Article 368.
- **Option (d) is incorrect: The amendment procedure of the Indian Constitution does not require a referendum for ratification of the amendment.** After the amendment bill is passed in Parliament, it goes to the President for assent, but the President does not have the power to send it back for reconsideration.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

3. Which one of the following statements is correct?
- a. The Constitution requires the consent of all States in order to amend articles related to the distribution of powers between the States and the central government.
 - b. The Constitution mandates that three-fourths of the State legislatures must pass the amendment bill for it to come into effect.
 - c. Federalism ensures that the powers of the States are not subject to the control of the central government.
 - d. The amendment process in the Constitution of India is rigid and impracticable due to the stringent conditions imposed on State participation.

Answer: C

Explanation:

- **Option (a) is incorrect: The Constitution of India does not require the consent of all states in order to amend articles related to the distribution of powers between the States and the central government.** Instead, the Constitution stipulates that legislatures of half the states must pass the amendment bill.

- **Option (b) is incorrect: The Constitution of India does not mandate that three-fourths of the State legislatures must pass the amendment bill for it to come into effect.** The requirement is for half the states to pass the amendment bill.
- **Option (c) is correct: Federalism ensures that the powers of the States are not subject to the control of the central government.** The Constitution of India recognizes and upholds the principles of federalism by providing for the distribution of powers between the central government and the states.
- **Option (d) is incorrect: While the amendment process in the Constitution of India may have some stringent conditions, such as requiring the consent of half the states, it is not considered rigid and impracticable.** The process strikes a balance by allowing for amendments while taking into consideration the participation of the states.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

4. Consider the following statements regarding amendments made in Indian constitution so far:
1. The 15th amendment increased the retirement age of High Court judges from 60 to 62 years.
 2. The 54th amendment increased the salaries of judges of High Courts and the Supreme Court.
 3. The amendment to Article 74(1) clarified that the President must abide by the advice of the Council of Ministers.

Which of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: C

Explanation:

- **Statement 1 is correct: The 15th amendment indeed raised the retirement age of High Court judges from 60 to 62 years.** It was a technical or administrative amendment that did not make any substantial difference to the provisions.
- **Statement 2 is correct: The 54th amendment increased the salaries of judges of High Courts and the Supreme Court.** Similar to the 15th amendment, this amendment was of a technical or administrative nature and did not bring about any significant changes to the provisions.
- **Statement 3 is correct: The amendment to Article 74(1) indeed clarified that the President must act in accordance with the advice of the Council of Ministers.** However, in practice, this amendment did not bring about any significant change as it only reaffirmed what had been happening already. The amendment served as an explanation rather than a substantive alteration.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

5. During the period of 1970-1975, the Parliament in India frequently introduced amendments to the Constitution to challenge and overturn judicial interpretations with which it disagreed. Consider the following statements regarding the situation:
1. The differing interpretations of the Constitution by the judiciary and the government of the day led to a constitutional crisis in India.
 2. The Parliament sought to establish its own authority by inserting amendments that its interpretation as the authentic one.

3. The amendments made by the Parliament during this period only focused on the relationship between fundamental rights and directive principles.

Which of the statements given above are correct?1

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: A

Explanation:

- **Statement 1 is incorrect:** While there were clashes between the judiciary and the government regarding interpretations of the Constitution, these clashes did not lead to a constitutional crisis.
- **Statement 2 is correct:** When the Parliament disagreed with the judicial interpretation, it sought to amend the Constitution to overcome the ruling of the judiciary. By doing so, the Parliament aimed to establish its own authority and endorse its own interpretation as the authentic one.
- **Statement 3 is incorrect:** The primary focus of amendments during this period was not the relationship between fundamental rights and directive principles. There were issues of difference between the Judiciary and the Parliament, including the relationship between fundamental rights and directive principles, but it was not the primary focus of the amendments.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

6. Consider the following statements about amendments made through political consensus in post-1984 India:

- 1. The anti-defection amendments (52nd and 91st) were a result of the prevailing political philosophy and aspirations of the society.
- 2. The 61st amendment lowered the minimum voting age from 21 to 18 years.
- 3. The 81st and 82nd amendments clarified and expanded the scope of reservations in jobs and admissions.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: C

Explanation:

- **Statement 1 is correct:** The anti-defection amendments (52nd and 91st) were a result of the prevailing political philosophy and aspirations of the society. These amendments aimed to address the issue of political defections, which were seen as a threat to the stability of governments and the democratic process. The consensus among political parties led to the introduction and passage of these amendments.
- **Statement 2 is correct:** The 61st amendment did lower the minimum voting age from 21 to 18 years. This amendment recognized that individuals aged 18 and above possess the maturity and capacity to participate in the electoral process and make informed decisions.
- **Statement 3 is correct:** The 81st and 82nd amendments clarified and expanded the scope of reservations in jobs and admissions. These amendments aimed to provide greater opportunities and representation for historically marginalized and disadvantaged groups in educational institutions and public employment. The consensus among political parties and

the evolving social consensus on the importance of affirmative action led to the passage of these amendments.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

7. Which one of the following statements is correct regarding the evolution of the Indian Constitution and the theory of the basic structure?
- The theory of basic structure emerged from a formal amendment to the Constitution.
 - The Kesavananda Bharati case established the limits to Parliament's power to amend the Constitution.
 - The theory of basic structure is explicitly mentioned in the Indian Constitution.
 - The Supreme Court's rulings have had no impact on the interpretation of the Constitution in the past four decades.

Answer: B

Explanation:

- Option (a) is incorrect: The theory of basic structure did not emerge from a formal amendment to the Constitution.** It originated from judicial interpretation and was established by the Supreme Court in the Kesavananda Bharati case in 1973.
- Option (b) is correct: The Kesavananda Bharati case indeed set specific limits to Parliament's power to amend the Constitution.** The court ruled that no amendment could violate the basic structure of the Constitution, thus placing restrictions on the amending power of Parliament.
- Option (c) is incorrect: The theory of basic structure is not explicitly mentioned in the Indian Constitution.** It has emerged through judicial interpretation and subsequent rulings of the Supreme Court.
- Option (d) is incorrect: The Supreme Court's rulings have had a significant impact on the interpretation of the Constitution in the past four decades.** The Court has played a crucial role in elaborating upon the theory of basic structure and has provided interpretations on various provisions of the Constitution, thereby contributing to its evolution.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

8. Which of the following statements best describes the concept of the Constitution as a living document?
- The Constitution remains unchanged and unaffected by societal changes.
 - The Constitution is static and does not respond to evolving circumstances.
 - The Constitution is designed to protect democracy but does not allow for the evolution of new practices.
 - The Constitution is adaptable and responsive to changing situations and interpretations.

Answer: D

Explanation:

- Option (d) is correct: The concept of the Constitution as a living document means that it is adaptable and responsive to changing circumstances and interpretations.** The Constitution is described as dynamic, open to interpretations, and capable of responding to the changing situation. It compares the Constitution to a living being that keeps responding to the evolving circumstances and experiences. This means that the Constitution is not static or unchanging, but rather it has the ability to evolve and accommodate new practices while still protecting democracy.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

9. Which of the following statements best describes the concept of the 'basic structure' theory in relation to the Indian Constitution?
- The 'basic structure' theory is explicitly mentioned in the Indian Constitution as a set of fundamental principles.
 - The 'basic structure' theory was invented by the Parliament to ensure the well-being of the poor, backward, and needy.
 - The 'basic structure' theory is a creation of the Judiciary, which holds that certain fundamental features of the Constitution cannot be altered.
 - The 'basic structure' theory refers to the legal procedures that must be followed to enact pro-people measures in the Indian Constitution.

Answer: C

Explanation:

- Option (c) is correct: The Judiciary invented the concept of the 'basic structure' theory.** It refers to the idea that certain fundamental features of the Constitution are so essential that they cannot be altered or amended by the Parliament. The Judiciary argues that pro-people measures should not bypass legal procedures and that the Constitution's basic structure must be respected. This theory is not explicitly mentioned in the Indian Constitution itself but has been recognized and accepted by various institutions over the past four decades.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

10. Consider the following statements about the different types of executive systems in various countries:
- The Kesavananda case ruling has continued to influence the interpretation of the Constitution for several decades.
 - The 42nd amendment was successful in asserting parliamentary supremacy and overturning the Kesavananda case ruling.
 - The vision described by Nehru at the time of independence is no longer relevant in today's political landscape.
 - The basic structure theory has set limits on the exercise of reviewing the Constitution.
- How many of the statements given above are correct?
- Only one
 - Only two
 - Only three
 - All four

Answer: B

Explanation:

- Statement 1 is correct: The ruling in the Kesavananda Bharati v. State of Kerala case, delivered by the Supreme Court in 1973, established the concept of the 'basic structure' of the Constitution.** This ruling stated that certain fundamental features of the Constitution cannot be amended by the Parliament, thereby shaping the interpretation of the Constitution for years to come.
- Statement 2 is incorrect: The 42nd amendment, enacted in 1976 during the period of emergency, did assert parliamentary supremacy and introduced several changes to the Constitution.** However, it did not overturn the Kesavananda case ruling. The Supreme Court, in subsequent cases like the Minerva Mills case in 1980, reiterated its earlier stand on the basic structure doctrine, thereby upholding the ruling in Kesavananda case.
- Statement 3 is incorrect: The vision described by Nehru at the time of independence, which included dignity and freedom of the individual, social and economic equality, well-**

being of all people, and unity based on national integrity, remains relevant in today's political landscape. The vision has not disappeared, and both the people and leaders still hold onto it, hoping to realize it.

- **Statement 4 is correct: The basic structure theory, as established in the Kesavananda case, has indeed set limits on the exercise of reviewing the Constitution.** It stipulates that while amendments can be made to the Constitution, they cannot violate or alter its basic structure. This principle acts as a safeguard to protect the fundamental principles and values enshrined in the Constitution from being arbitrarily changed.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

11. In the late nineties, the Government of India appointed a commission under the chairmanship of Justice Venkatachaliah to review the Constitution. Which of the following statements about the commission and its review is correct?
- a. The commission proposed several measures that would have endangered the basic structure of the Constitution.
 - b. Opposition parties and many other organizations actively participated in the commission's review process.
 - c. The commission disregarded the theory of basic structure and suggested significant changes to the Constitution.
 - d. The commission adhered to the theory of basic structure and did not recommend any measures that would threaten the Constitution's basic structure.

Answer: D

Explanation:

- **Option (d) is correct: The commission chaired by Justice Venkatachaliah stuck to the theory of basic structure.** It did not suggest any measures that would endanger or jeopardize the fundamental principles and core framework of the Constitution. Hence, the commission's review process respected the significance of the basic structure doctrine in the constitutional practice.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 9/ Constitution as a Living Document

Chapter 10- The Philosophy of Indian Constitution

INTRODUCTION

This chapter explores the philosophy of the Indian Constitution, which was adopted after independence from British rule. It discusses **why it is important to study the constitution and the debates in the Constituent Assembly** that shaped it.

WHAT IS MEANT BY PHILOSOPHY OF THE CONSTITUTION?

The philosophy of the constitution is the study of the moral vision and values that underlie the constitution and guide the society and polity of India.

It involves **three aspects**:

- **Understanding the conceptual structure of the constitution:** This means that we need to explore the possible meanings and implications of the **key terms and concepts** used in the constitution, such as rights, citizenship, minority, democracy, secularism, federalism, etc.
 - These concepts are not fixed or static, but open to **interpretation and debate**.
- **Working out a coherent vision of society and polity based on the constitution:** This means that we need to identify and articulate the **set of ideals and principles** that are embedded in the constitution, such as equality, justice, liberty, fraternity, dignity, diversity, etc.
 - These **ideals and principles** reflect the **aspirations and goals** of the people who framed the constitution and adopted it as their **supreme law**.
- **Reading the constitution in conjunction with the Constituent Assembly Debates:** This means that we need to **examine the historical context** and the rationale behind the choices and decisions made by the framers of the constitution.
 - **The Constituent Assembly Debates** provide valuable insights into the arguments and deliberations that shaped the constitution. They also help us to understand the **challenges and constraints** faced by the framers in drafting a constitution for a **diverse and complex nation**.
- **The philosophy of the constitution is important for several reasons:** It helps us to appreciate the **significance and relevance** of the constitution as a **living document** that reflects our **collective identity and values**.
 - It enables us to evaluate the **claims and criticisms** of the constitution from different **perspectives and viewpoints**.
 - It allows us to use the constitution as a **source of guidance and arbitration** in resolving **conflicts and disputes** over values or ideals in various political arenas.

CONSTITUTION AS MEANS OF DEMOCRATIC TRANSFORMATION

- **Constitutions as a Check on State Power:** Modern states wield significant power, including the monopoly over force and coercion.
 - Constitutions serve to **restrict the exercise of this power** and prevent institutions from falling into wrong hands that might abuse their authority.
 - By providing a **set of rules** that govern the functioning of the state, constitutions act as a **safeguard** against the potential harm to individuals and groups.
- **Constitutions as Instruments of Social Transformation:** Constitutions offer peaceful and democratic means to bring about social transformation.
 - They lay the groundwork for promoting **justice, equality, and freedom** in society.
 - For formerly colonized people, constitutions represent the first real exercise of **political self-determination**, as they enable the framing of laws and principles without external interference.

- **Nehru's Perspective on the Constituent Assembly:** Nehru recognized the importance of the Constituent Assembly in achieving full self-determination for India.
 - He saw it as a body that represented the **nation on the move**, shedding the shackles of the past and crafting a new path for the future.
 - The Constituent Assembly was not merely a gathering of individuals but a symbol of a nation fashioning its destiny through a **new garment of its own making**, i.e., the Indian Constitution.
- **Empowering the Marginalized:** Nehru's vision for the Indian Constitution went beyond limiting the power of the ruling elite.
 - He believed that constitutions should empower traditionally deprived and vulnerable sections of society.
 - The Indian Constitution was designed to break the barriers of social hierarchies and provide a platform for achieving **collective good, freedom, equality, and justice** for all.
- **Constitutional Democracy and Collective Empowerment:** This approach to constitutional democracy, as envisioned by Nehru, emphasizes that constitutions should not only constrain those in power but also empower marginalized communities.
 - By giving a voice and political power to the disadvantaged, constitutions become tools for achieving **positive social change** and fostering an **inclusive society**.

WHY DO WE NEED TO GO BACK TO THE CONSTITUENT ASSEMBLY?

- **Understanding the Original Intentions:** Studying the intentions and concerns of the framers of the Constitution helps us grasp the **original purpose and vision** behind its creation.
 - This understanding is crucial for interpreting the Constitution in its intended context and ensuring its proper implementation.
- **Continuity of Values and Ideals:** Unlike some other countries, India's values, ideals, and conceptions have not drastically changed from the time of the Constituent Assembly.
 - The Constitution's framework remains relevant to the present, as it continues to reflect the **aspirations and principles** of the Indian society.
- **Relevance for Present Times:** The quotes from the Debates of the Constituent Assembly provide valuable insights into the arguments and discussions that shaped the Constitution.
 - These arguments often have continued relevance in the present context, helping us address **contemporary challenges and issues**.
- **Uncovering Forgotten Principles:** Over time, certain constitutional practices might have been taken for granted, and their underlying principles may have been forgotten.
 - Revisiting the Constituent Assembly debates helps uncover these forgotten principles, ensuring a deeper understanding of the **value and meaning** of current constitutional practices.
- **Responding to Challenges:** When constitutional practices are challenged or threatened, understanding the underlying principles becomes essential for defending and preserving them.
 - By going back to the Constituent Assembly, we gain the necessary insights to respond effectively to challenges and protect the **core values** of the Constitution.
- **Grasping the Organizational Principles:** The Constituent Assembly debates and the colonial era serve as sources for understanding the organizational principles that underpin current constitutional practices.
 - This historical knowledge provides a foundation for comprehending the present and making **informed decisions**.

WHAT IS THE POLITICAL PHILOSOPHY OF OUR CONSTITUTION?

- **Liberalism:** The political philosophy of our Constitution embraces **liberal principles**, which prioritize **individual rights and freedoms**.

- It emphasizes the protection of **fundamental rights**, such as freedom of speech, expression, and religion, ensuring that citizens have the space to exercise their autonomy and make choices freely.
- **Democracy: Democratic values** form a fundamental pillar of our Constitution. It upholds the idea of a **government by the people**, where citizens participate in the decision-making process through regular and free elections.
 - Democracy ensures **accountability and responsiveness** to the will of the people.
- **Egalitarianism:** The Constitution is committed to the principle of **egalitarianism**, striving to reduce social and economic inequalities.
 - It promotes **equal opportunities and protection under the law**, aiming to bridge the gap between different social groups.
- **Secularism:** Our Constitution adopts a **secular approach**, ensuring the separation of religion from the state.
 - It respects all religions equally and guarantees religious freedom to individuals, while refraining from promoting any particular religion as the state religion.
- **Federalism:** Federalism is an integral part of the political philosophy of our Constitution.
 - It provides a **division of powers** between the central government and the states, allowing regional autonomy while maintaining the unity and integrity of the nation.
- **Inclusivity and Minority Rights:** The Constitution is sensitive to the **needs and rights of religious and linguistic minorities**.
 - It aims to protect their interests and ensures that they have a **voice and representation** in the governance of the country.
- **Social Justice:** The philosophy of our Constitution advocates for **social justice**, aiming to create a **fair and equitable society**.
 - It seeks to uplift historically disadvantaged groups, empowering them to participate in all spheres of life.
- **Building National Identity:** The Constitution is committed to building a **common national identity** while respecting the **diversity of cultures and communities** within the country.
 - It encourages a sense of **unity and belonging** among all citizens, fostering a shared identity as Indians.
- **Emphasis on Peaceful and Democratic Measures:** At the core of the political philosophy of our Constitution is the emphasis on **peaceful and democratic means** for implementing its principles.
 - It rejects violence and authoritarianism, advocating for **nonviolent methods** to address conflicts and issues.

INDIVIDUAL FREEDOM

The Indian Constitution strongly upholds the principle of **individual freedom**, which is a product of a long history of **intellectual and political struggle** dating back to the nineteenth century.

- **Historical Struggle for Freedom of Expression:** As early as the 1800s, **Rammohan Roy** protested against the **British colonial state's curtailment of the freedom of the press**.
 - He argued that a responsive state must allow **unlimited liberty of publication**, enabling individuals to communicate their needs.
 - The demand for a **free press** persisted throughout the British rule in India.
- **Inclusion of Individual Freedoms in the Constitution:** The Indian Constitution incorporates the values of **individual freedom**, including **freedom of expression and freedom from arbitrary arrest**.
 - These freedoms were essential to counter the oppressive Rowlatt Act, which was vehemently opposed by the national movement.
- **Liberal Character of the Indian Constitution:** The Constitution's recognition of individual freedoms aligns with **liberal ideology**.

- These freedoms, such as **freedom of conscience and expression**, contribute to the Constitution's strong liberal character.
- **Value of Individual Rights in the National Movement:** Before the adoption of the Constitution, the Indian National Congress consistently emphasized **individual rights** in every resolution, scheme, bill, and report for over forty years.
 - These individual rights were considered **non-negotiable values** in the struggle for independence.

SOCIAL JUSTICE

- **Linking Liberalism with Social Justice:** The liberalism of the Indian Constitution goes beyond the classical western notion, as it is intrinsically linked to the pursuit of **social justice**.
 - While classical liberalism prioritizes **individual rights** over social justice and community values, the Indian Constitution takes a different approach.
- **Reservations for Scheduled Castes and Scheduled Tribes:** One significant example of the Indian Constitution's commitment to social justice is the provision for **reservations** for Scheduled Castes (SC) and Scheduled Tribes (ST).
 - The Constitution recognizes that merely granting **equality** as a right is not enough to address the historical injustices faced by these marginalized groups.
- **Special Measures for Advancing Interests:** Recognizing the need for **affirmative action**, the constitution makers included special measures to protect the interests of SCs and STs.
 - Reserving seats in legislatures and allowing the government to reserve public sector jobs are some of the measures provided to uplift these disadvantaged communities.
- **Overcoming Age-Old Injustices:** The provision for **reservations** in the Constitution aims to overcome **age-old injustices** suffered by SCs and STs.
 - By providing them with opportunities in **political representation and public sector employment**, the Constitution seeks to **empower and uplift** these communities.
- **Ensuring Meaningful Exercise of Rights:** The constitution makers believed that real meaning to the **right to vote** for SCs and STs could only be given through **special constitutional measures**.
 - The reservations help ensure that these communities have **meaningful participation** in the democratic process and governance.

RESPECT FOR DIVERSITY AND MINORITY RIGHTS

- **Acknowledging the Value of Communities:** Unlike most western liberal constitutions that tend to ignore communities, the Indian Constitution acknowledges the significance of **cultural communities**.
 - It recognizes that individuals belong to various cultural communities, each with its own **values, traditions, customs, and language**.
- **A Land of Multiple Cultural Communities:** India is a diverse nation with multiple **linguistic and religious communities**.
 - Unlike some other countries like Germany or France, India has a wide array of cultural communities.
 - Recognizing **community-based rights** became crucial to ensuring that no single community systematically dominates others.
- **Community-Based Rights in the Constitution:** The Indian Constitution recognizes **community-based rights** to safeguard the interests of **minority communities**.
 - For instance, religious communities have the right to establish and manage their own educational institutions.
 - These institutions may receive government funding, demonstrating that religion is not merely a private matter concerning individuals.

- **Preserving Minority Rights:** By allowing religious communities to establish and run their own educational institutions, the Constitution preserves the rights and autonomy of minority communities.
 - This provision ensures that minority communities can maintain their distinct **cultural identities and traditions**.

SECULARISM

- **Rights of Religious Groups:** The Indian Constitution recognizes the importance of **inter-community equality** alongside individual equality.
 - Acknowledging that a person's freedom and self-respect are linked to their community's status, the Constitution grants **rights to all religious communities**.
 - These rights include the right to establish and maintain their educational institutions, ensuring **freedom of religion** for both individuals and communities.
- **State's Power of Intervention:** Unlike the mutual exclusion model of secularism in the West, India's context demanded a different approach.
 - Religious customs like untouchability severely undermined individual dignity and self-respect.
 - The pervasive nature of such customs required **active state intervention** for their eradication.
 - The state may interfere or aid religious communities based on which action promotes values such as **freedom, equality, and social justice**.
- **Principled Distance between State and Religion:** The Indian Constitution maintains a **principled distance** between religion and the state.
 - This complex idea allows the state to be **neutral and impartial** to all religions, facilitating intervention or non-interference based on the promotion of liberty, equality, and social justice.

ACHIEVEMENTS OF THE INDIAN CONSTITUTION

- **Reinforcement of Liberal Individualism:** The Constitution's commitment to **liberal individualism** is a significant achievement, considering the backdrop of a society where community values might be indifferent or hostile to individual autonomy.
- **Upholding Social Justice and Individual Liberties:** The Indian Constitution upholds **social justice** while ensuring the protection of **individual liberties**. The inclusion of caste-based affirmative action programs exemplifies India's progress compared to other nations that initiated similar programs later.
- **Commitment to Group Rights and Cultural Particularity:** Despite inter-communal strife, the Constitution remains committed to **group rights**, allowing the expression of cultural particularity. The framers of the Constitution were willing to address the challenges of multiculturalism, showcasing their foresight.

UNIVERSAL FRANCHISE

- **Commitment to Universal Franchise:** One of the core achievements of the Indian Constitution is its commitment to **universal franchise**.
 - Despite widespread beliefs that traditional hierarchies in India were deeply entrenched and challenging to eliminate, the Constitution chose to embrace the idea of **universal suffrage**.
- **Democracy and Indian Nationalism:** Indian nationalism, from its early stages, envisioned a political order based on the **will of every single member of society**.

- The idea of **democratic self-government** was inherent in the concept of a nation, and universal franchise was seen as a crucial element of this vision.
- **Early Recognition of Universal Franchise:** Even before the adoption of the Indian Constitution, early attempts at drafting a constitution for India, such as the Constitution of India Bill (1895) and the Motilal Nehru Report (1928), emphasized the **right of every citizen**, regardless of their gender or social background, to participate in the country's affairs and exercise their **right to vote**.
- **The Legitimate Instrument of National Will:** Universal franchise was considered the most important and legitimate instrument by which the **will of the nation** could be genuinely expressed.
 - By providing voting rights to all citizens, the Constitution ensured that each individual had an **equal say** in shaping the country's future.

FEDERALISM

- **Introduction of Article 371:** The Indian Constitution introduces the concept of **asymmetric federalism** through Article 371, specifically concerning the **North-East region**.
 - This provision anticipates the need for constitutionally embedded differences between sub-units within the federation to address their specific needs and requirements.
- **Constitutionally Embedded Differences:** Unlike the constitutional symmetry seen in American federalism, Indian federalism is **constitutionally asymmetric**.
 - This means that certain sub-units have **unique relationships or special status** within the federation to meet their specific demands.
- **Special Status for Nagaland:** Article 371A confers **special status** on the North-Eastern state of Nagaland.
 - It validates pre-existing laws within the state and protects **local identity** by imposing restrictions on immigration.
 - Many other states also benefit from such special provisions.
- **India as a Multi-Lingual Federation:** India has evolved into a **multi-lingual federation**, recognizing and politically empowering each major linguistic group as equals.
 - This linguistic federalism allows claims to unity while preserving and respecting **diverse cultural identities**.
- **Democratic and Linguistic Federalism:** India's democratic and linguistic federalism successfully combines **unity with cultural recognition**.
 - The country's political arena accommodates **multiple identities**, allowing them to coexist and complement each other.

NATIONAL IDENTITY

- **Balancing Regional and National Identity:** The Indian Constitution constantly reinforces a **common national identity** while also striving to retain **regional identities**.
 - It recognizes the importance of both **national unity** and the diverse religious and linguistic identities that exist within the country.
- **Accommodating Distinct Religious and Linguistic Identities:** The Constitution acknowledges that the common national identity is not incompatible with distinct religious or linguistic identities.
 - It seeks to strike a balance between these various identities, promoting a sense of **unity while respecting and celebrating diversity**.
- **Rejection of Separate Electorates:** The Constitution rejects the concept of **separate electorates** based on religious identity.
 - This decision is not driven by a desire to suppress differences between religious communities, but rather to ensure a **healthy national life** and promote true fraternity among citizens.

- **Fostering True Fraternity:** The objective of the Indian Constitution, inspired by the vision of Dr. B.R. Ambedkar, is to evolve a sense of **true fraternity** among the people.
 - Rather than enforcing forced unity, the Constitution aims to foster **genuine unity and brotherhood** among citizens.
- **Unity through Evolving 'One Community':** As expressed by Sardar Patel, the main goal of the Constitution is to evolve 'one community' where all citizens, regardless of their religious or linguistic backgrounds, feel a sense of **belonging and common purpose**.

PROCEDURAL ACHIEVEMENTS

- **Faith in Political Deliberation:** The Indian Constitution reflects a strong faith in **political deliberation**.
 - Despite some groups and interests not being adequately represented in the Constituent Assembly, the makers of the Constitution aimed to be as **inclusive** as possible.
 - The open-ended approach demonstrated a willingness to **modify existing preferences and justify outcomes based on reasons** rather than self-interest.
 - It also recognized the value of embracing **creative differences and disagreements**.
- **Spirit of Compromise and Accommodation:** The Constitution embodies a spirit of **compromise and accommodation**, which should not be viewed with disapproval in all cases.
 - Not all compromises are negative; some are necessary for reaching **agreements and advancing the common good**.
 - When values are partially traded off for other values through open, free deliberation among equals, such compromises are **justifiable and commendable**.
- **Balancing Important Values:** While it might be impossible to achieve everything desired, the Constitution aims to secure a **balance of important values**.
 - This approach ensures that no single interest dominates at the expense of others, promoting **fairness and inclusivity** in the decision-making process.
- **Consensual Decision-Making:** The Constitution upholds the idea that decisions on the most crucial issues should be arrived at **consensually** rather than through majority vote.
 - This commitment to seeking broad agreement fosters a sense of **cooperation and harmony** among different stakeholders.

CRITICISMS

- **Unwieldy Nature:** One criticism directed at the Indian Constitution is that it is **unwieldy** due to its **extensive size and inclusion of many details, practices, and statements**.
 - Some argue that a country's constitution should be found in one compact document, but in India, numerous important constitutional provisions are included in one single document, making it relatively large in size.
- **Unrepresentative Character:** Another criticism is that the Constitution is **unrepresentative** since the Constituent Assembly that drafted it was not chosen through **universal adult franchise**.
 - Members of the assembly came from the **advanced sections of society**, which could be seen as lacking true representativeness.
- **Alien to Indian Culture:** Some critics argue that the Indian Constitution is entirely **alien to Indian culture** as it borrowed elements from **western constitutions**.
 - This concern is based on the perception that the Constitution may not align entirely with the **cultural ethos and traditions of the Indian people**.

RESPONSES TO THE CRITICISMS:

- **Selective Adaptation:** While the Indian Constitution indeed borrowed elements from various sources, it was not a blind borrowing. The process involved **selective adaptation and**

innovative incorporation of various principles to suit the specific needs and challenges of India.

- **The Emergence of Alternative Modernity:** Indian society witnessed the emergence of a **hybrid culture** that blended western modernity with local cultural systems. This resulted in a different, **alternative modernity**, where Indians creatively adapted modern ways of thinking, using them to address questions of dignity and justice. The Constitution reflects this amalgamation of values.
- **Representation and Inclusivity:** Though the Constituent Assembly might have lacked universal adult franchise, it did represent a **wide range of opinions and concerns**. The debates and discussions in the assembly covered a vast array of issues and reflected the interests and concerns of different social sections.
- **Reflecting Aspirations of the Marginalized:** The Indian Constitution has come to symbolize the **aspirations of marginalized communities**, particularly Dalits. The statue of Dr. Ambedkar holding a copy of the Constitution in many town squares signifies their belief that the Constitution reflects their aspirations.

LIMITATIONS

- **Centralised Idea of National Unity:** The Indian Constitution adopts a **centralized approach** to national unity, concentrating significant powers at the **federal level**.
 - While this design was intended to foster a strong and united nation, it has led to challenges in addressing the diverse needs and aspirations of the states and regions.
 - Critics argue that a more **decentralized system** might better accommodate the country's cultural, linguistic, and regional diversity.
- **Gender Justice within the Family:**
 - The Constitution has been criticized for not adequately addressing **gender justice issues** within the family.
 - It is argued that certain traditional practices and customs that discriminate against women have not been explicitly dealt with.
 - Despite some provisions for gender equality, there remains a need to address deeply ingrained social attitudes and practices that perpetuate discrimination within the family.
- **Directive Principles vs. Fundamental Rights:**
 - The Constitution distinguishes between **Directive Principles of State Policy** and **Fundamental Rights**.
 - While **Fundamental Rights** are justiciable and enforceable by courts, **Directive Principles** are non-justiciable and serve as guiding principles for the government.
 - Critics contend that certain essential **socio-economic rights**, crucial for a developing nation, were placed under the Directive Principles rather than being made legally enforceable fundamental rights.
- **Addressing the Limitations:**
 - **Decentralization and Federalism:** To address the centralization concern, there could be more **devolution of power** to the states, allowing them greater autonomy in decision-making within their respective domains. This might involve revisiting the **division of powers** between the center and the states to empower regions to handle regional issues better.
 - **Strengthening Gender Justice:** To promote gender justice within the family, the Constitution can be amended to explicitly address **gender-related discrimination and inequalities**. Additionally, legislation and awareness campaigns may be implemented to challenge and change regressive social norms and customs.
 - **Ensuring Socio-economic Rights:** To ensure socio-economic rights are adequately protected, a reevaluation of the status of **Directive Principles** could be undertaken. Critical socio-economic rights could be elevated to the status of **justiciable fundamental rights**, ensuring their enforcement through the legal system.

POINTS TO REMEMBER**THE JAPANESE CONSTITUTION OF 1947 - A PEACE CONSTITUTION****Preamble**

- “We, the Japanese people, **desire peace for all time** and are deeply conscious of the **high ideals controlling human relationships**.”

ARTICLE 9

- “Aspiring sincerely to an **international peace based on justice and order**, the Japanese people **forever renounce war** as a sovereign right of the nation and the threat or use of force as means of settling international disputes.”
- “In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other **war potential, will never be maintained...**”

PHILOSOPHY

- The Japanese constitution is based on the **ideal of peace**, as evidenced by its **renunciation of war** as a sovereign right and its commitment to seeking international peace through justice and order. Article 9 firmly establishes Japan’s dedication to **pacifism and non-aggression**.

QUESTIONS

1. Which of the following statements is correct regarding the philosophy of the constitution?
- a. The constitution consists solely of laws and has no connection to moral values.
 - b. Laws and moral values are completely separate, and the constitution does not reflect any moral vision.
 - c. The conceptual structure of the constitution includes key concepts such as rights, citizenship, minority, and democracy.
 - d. The constitution's moral values do not need to be justified or examined further.

Answer: C

Explanation:

- **Option (a) is incorrect: There is a connection between laws and moral values.** While not all laws may have a moral content, many laws are closely connected to deeply held values.
- **Option (b) is incorrect: The notion of laws and moral values are not completely separate.** It states that the constitution is based on a certain moral vision and that there is a connection between laws and moral values.
- **Option (c) is correct: To understand the constitution, we need to understand the conceptual structure of key terms used in it, such as rights, citizenship, minority, and democracy.** These concepts play a crucial role in the constitutional framework.
- **Option (d) is incorrect: A philosophical treatment of the values embedded in the constitution requires a detailed justification.** It implies that the moral values expressed in the constitution should be examined and refined to better understand their justifications.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

2. Consider the following statements regarding constitutions as a means of democratic transformation:
1. Constitutions restrict the exercise of power by states, preventing them from turning tyrannical.
 2. Constitutions provide peaceful, democratic means to bring about social transformation.
 3. Constitutions are solely designed to limit people in power and prevent abuse of power.
 4. The Indian Constitution aimed to break traditional social hierarchies and empower marginalized groups.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. Only three
- d. All four

Answer: C

Explanation:

- **Statement 1 is correct: One of the main purposes of a constitution is to limit the power of the state and prevent the abuse of power.** Constitutions establish the rules and principles that govern the exercise of power by state institutions, ensuring that they operate within certain boundaries and respect the rights and freedoms of individuals.
- **Statement 2 is correct: Constitutions serve as a framework for democratic governance and provide mechanisms for peaceful social transformation.** They establish democratic processes such as elections, separation of powers, and fundamental rights that allow for the peaceful resolution of conflicts and the pursuit of social change through legal and political means.
- **Statement 3 is incorrect: While one of the primary functions of a constitution is to limit the power of those in authority, constitutions also serve other purposes.** They establish the structure of government, define the rights and freedoms of individuals, and set out the values and principles that guide the functioning of the state. Constitutions aim to create a balance between limiting power and empowering individuals and society as a whole.
- **Statement 4 is correct: The Indian Constitution, framed after India's independence from colonial rule, was designed to not only establish a democratic system of governance but also to address social inequalities and empower marginalized groups.** It includes provisions for social justice, affirmative action, and the protection of the rights of historically disadvantaged communities. The aim was to promote equality, justice, and inclusivity in Indian society.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

3. Consider the following statements about the commitment to individual freedom in the Indian Constitution:
1. The commitment to individual freedom in the Indian Constitution can be traced back to the continuous intellectual and political activities of over a century.
 2. Rammohan Roy advocated for unlimited liberty of publication, arguing that the state should allow individuals to communicate their needs freely.
 3. The freedom of expression and freedom from arbitrary arrest are integral parts of the Indian Constitution due to their demand by the Indian public during British rule.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: C

Explanation:

- **Statement 1 is correct: The commitment to individual freedom in the Indian Constitution was not a sudden development but rather the result of continuous intellectual and political activities spanning over a century.**

- **Statement 2 is correct: Rammohan Roy protested against the curtailment of freedom of the press by the British colonial state** and argued that a state responsive to the needs of individuals must permit unlimited liberty of publication
- **Statement 3 is correct: Freedom of expression and freedom from arbitrary arrest, among other individual freedoms, are integral parts of the Indian Constitution.** It further states that these freedoms were demanded by the Indian public throughout British rule, citing the opposition to the Rowlatt Act, which sought to deny the basic freedom from arbitrary arrest.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

4. Which of the following statements best describes the political philosophy of the Indian Constitution?
- a. The political philosophy of the Indian Constitution is primarily conservative, focusing on maintaining traditional values and structures.
 - b. The political philosophy of the Indian Constitution is socialist, aiming to establish a classless society through collective ownership of means of production.
 - c. The political philosophy of the Indian Constitution is liberal, democratic, egalitarian, secular, and federal, emphasizing freedom, equality, social justice, and national unity.
 - d. The political philosophy of the Indian Constitution is authoritarian, concentrating power in the hands of a central governing body.

Answer: C

Explanation:

- **Option (c) is correct: The statement accurately describes the political philosophy of the Indian Constitution.** It highlights that the Indian Constitution encompasses multiple principles such as liberalism, democracy, egalitarianism, secularism, and federalism. These principles emphasize individual freedoms, equal rights, social justice, and the unity of diverse communities.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

5. Which of the following statements accurately describes the liberalism of the Indian Constitution?
- a. The liberalism of the Indian Constitution aligns with classical Western liberalism.
 - b. The Indian Constitution links liberalism to the idea of social justice.
 - c. The Indian Constitution emphasizes the rights of individuals over social justice and community values.
 - d. The provision for reservations for Scheduled Castes and Scheduled Tribes is not mentioned in the Indian Constitution.

Answer: B

Explanation:

- **Option (a) is incorrect: The liberalism of the Indian Constitution differs from the classical Western sense of liberalism.**
- **Option (b) is correct: The liberalism of the Indian Constitution was always linked to social justice.** The example provided is the provision for reservations for Scheduled Castes and Scheduled Tribes, which were included to address historical injustices and advance their interests.
- **Option (c) is incorrect: The Indian Constitution does not prioritize individual rights over social justice and community values.** In fact, it highlights that the Indian Constitution always linked liberalism to social justice.
- **Option (d) is incorrect: The Indian Constitution includes provisions for reservations for Scheduled Castes and Scheduled Tribes.** Indian Constitution is always linked to social justice.

The best example of this is the provision for reservations for Scheduled Castes and Scheduled Tribes in the Constitution

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

6. Which of the following statements is correct diversity and minority rights in the Indian Constitution?
- The Indian Constitution acknowledges the existence and value of cultural communities in India.
 - The Indian Constitution only recognizes linguistic communities and not religious communities.
 - The Indian Constitution does not provide any provisions for religious communities to establish and run their own educational institutions.
 - The Indian Constitution views religion solely as a private matter and does not consider it in the public sphere.

Answer: A

Explanation:

- Option (a) is correct: India is a land of multiple cultural communities, and it was important for the Constitution to recognize and ensure that no one community dominates others.**
- Option (b) is incorrect: The Indian Constitution only recognizes linguistic communities.** It highlights the recognition of religious communities' rights, such as the right to establish and run their own educational institutions.
- Option (c) is incorrect: The Indian Constitution grants religious communities the right to establish and run their own educational institutions,** which may receive funding from the government.
- Option (d) is incorrect: The Indian Constitution does not view religion as merely a private matter concerning the individual.** It recognizes the importance of religious communities and their rights within the public sphere, including the establishment of educational institutions.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

7. Consider the following statements accurately reflect the Indian Constitution's approach to secularism
- The Indian Constitution follows the mainstream, western conception of secularism, emphasizing the mutual exclusion of state and religion.
 - The Indian Constitution grants rights to all religious communities, including the right to establish and maintain educational institutions.
 - In India, separation between religion and state means principled distance, allowing the state to intervene or abstain from interference based on promoting values such as freedom and equality.
 - The Indian Constitution does not uphold the principle of social justice and does not recognize group rights.

How many of the statements given above are correct?

- Only one
- Only two
- Only three
- All four

Answer: B

Explanation:

- Statement 1 is incorrect: The Indian Constitution departs from the mainstream, western conception of secularism in two ways.** While the western conception emphasizes the mutual exclusion of state and religion, the Indian Constitution adopts a concept of principled distance,

which allows the state to intervene or abstain from interference based on promoting values such as freedom and equality.

- **Statement 2 is correct: The Indian Constitution recognizes and grants rights to all religious communities, including the right to establish and maintain educational institutions.** This is in line with the Indian Constitution's commitment to intercommunity equality and the freedom of religion for both individuals and communities.
- **Statement 3 is correct: The Indian Constitution does not follow the mutual exclusion model of secularism.** Instead, it advocates for a principled distance between religion and state, which allows the state to intervene or abstain from interference based on promoting values such as freedom and equality. This approach acknowledges that certain religious practices or customs, such as untouchability, may require active state intervention to protect the dignity and self-respect of individuals.
- **Statement 4 is incorrect: The Indian Constitution upholds the principle of social justice without compromising on individual liberties.** It recognizes the importance of addressing social inequalities and provides for affirmative action programs, such as caste-based reservations, to promote equality and justice. Additionally, the Constitution acknowledges group rights and the expression of cultural particularity, emphasizing the importance of inter-communal harmony and multiculturalism.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

8. Which of the following statements accurately reflects the concept of universal franchise in the context of Indian nationalism?
- Universal franchise was a widely accepted principle in India due to the elimination of traditional hierarchies.
 - The concept of universal franchise was introduced in the Constitution of India Bill in 1895, but it was not reaffirmed in subsequent reports.
 - The idea of universal franchise emerged in India after the elite class adopted the concept of democratic self-government.
 - The idea of universal franchise was an integral part of Indian nationalism and emphasized the political order based on the will of every individual in society.

Answer: D

Explanation:

- **Option (a) is incorrect: There was a widespread belief that traditional hierarchies in India were difficult to eliminate.** It does not indicate that universal franchise was widely accepted due to the elimination of these hierarchies.
- **Option (b) is incorrect: The Constitution of India Bill in 1895 was one of the earliest (non-official) attempts at drafting a constitution, and it recognized the right of every citizen to take part in the affairs of the country.** However, the concept of universal franchise was reaffirmed in subsequent reports.
- **Option (c) is incorrect: The idea of a nation took root among the elite, the idea of democratic self-government followed.** It does not specifically state that the idea of universal franchise emerged after the elite class adopted the concept of democratic self-government.
- **Option (d) is correct: The idea of universal franchise lay within the heart of Indian nationalism.** It emphasizes that every citizen, regardless of sex, has the right to vote and participate in the affairs of the country.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

9. Consider the following statements about Indian federalism and the concept of asymmetric federalism:
1. The Indian Constitution creates a strong central government.
 2. The legal status and prerogatives of sub-units within the Indian federation are constitutionally symmetric, similar to American federalism.
 3. Article 371A of the Indian Constitution grants special status to the North-Eastern State of Nagaland, protecting local identity through immigration restrictions.

How many of the statements given above are correct?

- a. Only one
- b. Only two
- c. All three
- d. None

Answer: B

Explanation:

- **Statement 1 is correct: The Indian Constitution has a unitary bias, meaning it favors a strong central government.** This can be inferred from the discussion about the central government's power and the constitutional symmetry being different from American federalism.
- **Statement 2 is incorrect: The Indian federalism is constitutionally asymmetric.** Unlike the constitutional symmetry of American federalism, the Indian Constitution provides constitutionally embedded differences in the legal status and prerogatives of different sub-units within the federation.
- **Statement 3 is correct: Article 371A, which provides special status to the North-Eastern State of Nagaland.** It not only validates pre-existing laws within Nagaland but also safeguards local identity through restrictions on immigration. This supports the statement that Article 371A grants special status and protects local identity.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

10. Which of the following statements accurately is correct about national identity and the Indian Constitution?
- a. The Indian Constitution promotes regional identities over a common national identity.
 - b. The Indian Constitution supports separate electorates based on religious identity for fostering national unity.
 - c. The Indian Constitution seeks to balance various identities while giving preference to a common national identity.
 - d. The Indian Constitution emphasizes forced unity rather than true fraternity as advocated by Dr. Ambedkar.

Answer: C

Explanation:

- **Option (a) is incorrect: The Indian Constitution strives to retain regional identities along with the national identity,** indicating that it does not prioritize regional identities over a common national identity.
- **Option (b) is incorrect: The Indian Constitution rejects separate electorates based on religious identity.** It clarifies that separate electorates were rejected because they endangered a healthy national life, not because they endangered national unity.
- **Option (c) is correct: The Indian Constitution tries to balance regional, religious, and linguistic identities while also emphasizing a common national identity.** It seeks to evolve true fraternity and emphasizes a healthy national life.
- **Option (d) is incorrect: The Indian Constitution aimed to evolve true fraternity, a goal dear to the heart of Dr. Ambedkar.** It does not emphasize forced unity but rather seeks a genuine sense of unity and harmony among the various communities in the country.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

11. Which of the following statements regarding the procedural achievements of the Indian Constitution is/are correct?
- The makers of the Constitution aimed to represent all groups and interests adequately in the Constituent Assembly.
 - The Indian Constitution emphasizes the importance of self-interest in decision-making processes.
 - Compromise and accommodation are viewed negatively in the Indian Constitution.
 - The Indian Constitution advocates decision-making through majority vote rather than consensus.

Answer: A

Explanation:

- Option (a) is correct: Many groups and interests were not adequately represented in the Constituent Assembly, however, the debates in the Assembly reflect the makers' intention to be as inclusive as possible in their approach.** They wanted to accommodate different perspectives and ensure a broad representation of interests.
- Option (b) is incorrect: The makers of the Constitution were willing to modify their existing preferences and justify outcomes based on reasons rather than self-interest.** The emphasis is on reasoning and justifying decisions, not self-interest.
- Option (c) is incorrect: Compromise and accommodation, when arrived at through an open process of free deliberation among equals, are not viewed negatively.** Not all compromises are bad and that some trade-offs are necessary to secure a bit of all things important. The spirit of compromise and accommodation is seen as valuable and morally commendable.
- Option (d) is incorrect: Decisions on the most important issues must be arrived at consensually rather than by a majority vote.** It suggests that a commitment to decision-making through consensus, where all parties reach an agreement, is morally commendable. Therefore, the Indian Constitution does not advocate decision-making solely through a majority vote.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

12. Consider the following statements about the limitations of the Constitution of India:
- The Indian Constitution emphasizes a centralized idea of national unity.
 - The Constitution's Directive Principles encompass certain basic socio-economic rights, which are relegated to a separate section.

Which of the statements given above are correct?

- 1 only
- 2 only
- Both 1 and 2
- Neither 1 nor 2

Answer: C

Explanation:

- Statement 1 is correct: The Constitution of India does emphasize a centralized idea of national unity.** It establishes a federal system of government where power is divided between the central government and the state governments. However, the central government has

been given significant powers, which some argue have led to a more centralized governance structure.

- **Statement 2 is correct: The Directive Principles of State Policy, outlined in Part IV of the Constitution, encompass certain basic socio-economic rights. These principles provide guidelines for the state to strive towards achieving social and economic justice.** While not enforceable by the courts, they serve as a moral and political obligation for the government to work towards improving the welfare of its citizens. Examples of socio-economic rights included in the Directive Principles are the right to adequate means of livelihood, equal pay for equal work, and protection of the environment.

Source: Class 11th NCERT/ Indian Constitution at Work/ Chapter 10/ The Philosophy of the Constitution

